So this Steve Nelson, enemy of the American way of life, equipped with the armament of deceit and stratagems comes to Pittsburgh. And what does he say? The first thing he says to Matt Cvetic is: "Matt, I am depending on you a whole lot because you know the district here; you are one of the comrades we trust and I am going to depend on you for a lot, to do everything we can." And you recall me asking Mr. Cvetic what kind of work was placed directly under the supervision of this Steve Nelson, and you recall he said that the District Organizer was responsible for the organizing and the sale and distribution of literature of the Communist Party, and, Members of the Jury, just for a very short period of time you look through these sales books and you will find that these books are sent everywhere throughout the Western Pennsylvania District: Erie, Farrell and Homestead, throughout the State. You will find the kind of books they distributed and how they had a thorough system of sending these books out. It is not just [fol. 2596] the books in the headquarters that they found on this particular day but this has been going on a hundred times over and over. And the courses this defendant had to select for the school and the use of the books.

And no one denies the breath taking testimony given by Matt Cvetic. The defense knows very well that Matt Cvetic was telling the truth about the revolutionary activities of Steve Nelson. The FBI chose wisely and well in selecting Matt Cvetic for his important task. It required moral courage of the highest order to pose as a Communist for nine years. But Cvetic just had that kind of courage. And he told you that he even developed a heart condition in working to find out for the Government of the United States about what these men stood for. And it was because of this kind of sacrifice that the FBI and the government in general have been able to get this kind of evidence of the inner workings of the Communist organization in its sinister and seditious undertakings.

I believe that it is general knowledge that the FBI examines thoroughly the character and the integrity and the reliability of the men it chooses to do this kind of work. And Cvetic's work for the FBI for many years a test to

the complete reliability of his testimony, Members of the Jury.

You remember that Cvetic testified that Nelson said, "Now, we have the atom bomb and the enemy will not be [fol. 2597] in such a hurry to start another war." And that explains, Members of the jury, this Peace Petition—this so-called Peace Petition. You take a look at this Peace Petition. What does it say? It says it is an appeal for the United States to drop the atom bomb. It is to disregard the atom bomb. Stop making it. Do they say anything else? Do they say about stopping armies all over the world—no, because Russia has the biggest army of all and all they want to do is to have the United States stop making the atom bomb so that the world will be undefended and they can move in and take over. That's the very reason for that appeal about the atom bomb. They are not fooling anybody.

When Matt Cvetic took the stand to tell you the story of the work of this defendant in the interests of the Soviet Union of Russia he knew very well the whole story of name calling and all the Communist tactics of trying to make a farce of justice and orderly courtroom procedure. He knew he would be attacked. Matt Cvetic knew he would be attacked viciously and dishonestly, but he took these attacks with a smile because this was just part of the job to serve his country. He knew he had to undergo that. And as far as that is concerned Mr. Cvetic or any other true American will take all the venom and poison that Steve Nelson has to hand out and a lot more in order to serve this country and the great Commonwealth of Pennsylvania.

[fol. 2598] Mr. Cvetic has the heartfelt gratitude of every American for what he has done and continues to do in behalf of the American way of life.

In further detailing to you the work of Steve Nelson, Mr. Cvetic told you this defendant supervised the steel concentration work, with Andy Onda carrying out the orders. He told you that the concentration points in this district were the plants of the United States Steel Corporation up around Duquesne, up around Braddock, up around Homestead; the J. & L. Plant on the Southside Pittsburgh; the plant of the

Crucible Steel Company; and also the steel areas of Alliquippa and Beaver Valley, and surrounding communities.

Do you know what that means to have communists in places like that? In the Westinghouse Electric and all these other places? Do you know what it means to have communists turning out defective equipment for our battleships and airplanes and our radar and our radios? And worse yet to sabotage the whole plant? There is what is known as the concentration policy of the Communist Party——

Mr. Nelson: I object to that, Your Honor.

The Court: Objection sustained. There is no charge of [fol. 2599] sabotage.

That is what is called——

Mr. Nelson: I ask you to direct him not to make these charges that are unfounded and are absolutely out of the bounds of common argument in a court of law. He is making these——

The Court: He is not charged in this indictment with sabotage and spying as previously mentioned, Mr. Cercone. So limit yourself to the charges which confront the jury and the court at this time.

Mr. Nelson: That is exactly what I said. He is waving a flag.

Would a man call America the enemy unless there was some other country to which he owed his allegiance? Of course not. You can look through all this literature and all these books and all these magazines and find nothing that praises the United States—but praises nothing else but the Soviet Union.

[fol. 2600] You remember Matt Cvetic saying that he never saw a man more jubilant when he found out that the Soviet Union had the atom bomb.

Steve Nelson was directing the strategy all right against the United States. And listen to Matt Cvetic when he tells you for example: "If we had a meeting or a party class perhaps Steve Nelson, Bill Albertson, or myself, if we were referring to Stalin or something that he wrote, we would say that 'I agree with comrade Stalin' or we had songs in the party where we would sing 'Comrade Stalin is our

Leader'; and at all times he was 'Comrade Stalin, our Leader,' and we were part of the international Soviet."

And Matt Cvetic attended over two thousand meetings where the basic message was always the overthrow of the United States by force and violence. Members of the Jury. Listen to what Matt Cvetic says when Steve Nelson returned from the House Un-American Activities Committee when he was called there—he was subpenaed there to answer certain questions. And when he came back they met at a certain place and he bragged about not telling anything. Here is a man that talks about free speech and yet when you really need free speech they clam up pretty well. Now, if anybody of true Americanism was called before the House of Congress to tell anything that they know certainly they [fol. 2601] would be happy to say so. But not the Communists.

Mr. Nelson: The chairman of that committee was a crook. He stole money from the United States Government—that's why I didn't testify before him.

Then George Wuchinich made a remark, "We should get the machine guns and mow those bastards down," and Steve Nelson said, "Not yet, George, we are not ready for the machine guns yet." "Not yet," said the defendant. How much that statement reveals about a man like Nelson. It means we mustn't be in a hurry, Communists, we're playing for big stakes. It means if we make any mistakes now, our real purpose will be revealed and therefore aborted. Not yet, this enemy of the people of the United States says, which means he fully intended to put into play a program of violence and force. The children going to school and at night sleep peacefully in their beds are still safe. But those words mean not for long, if Steve Nelson had his way.

Mr. Nelson: I object. What evidence is there of this?

The Court: You are reading from something, the de- [fol. 2602] fendant wants to know what you are reading from—that last quotation.

Mr. Cercone: From Matt Cvetic's testimony, Your Honor. About "Not yet", George Wuchinich said, "We should use the machine guns now," and Steve Nelson said "Not yet."

The Court: All right.

Steve Nelson worked up the pitch and tenor of this Party to such a degree that he had a perfect organization for the Communist International here in Pittsburgh.

Nelson has the sheer brass to stand up before you and tell you that he wants to improve conditions in the United States. And the evidence in the case shows conclusively and beyond a shadow of a doubt that he has only hatred and contempt and scorn for the United States. There is not one exhibit or piece of evidence that does not reveal that.

And one of the exhibits here is a book written by his national chairman, William Z. Foster, who dedicates the book "To my great grandson Joseph Manley Kolko who will live in a Communist United States."

[fol. 2603] And Foster is deadly earnest about turning the United States into a Communist country and therefore eventually a satellite of the Soviet Union.

On page 19 he said: "The Communist Party is the leading force of the Dictatorship of the Proletariat." Now, Members of the Jury, this book wasn't written a hundred years ago. This book the last publication according to this is 1949.

And on the same page: "The Soviet Union, with its one-party system, is a Dictatorship of the Proletariat."

And after Lenin died, Foster has this to say about Lenin, on page 21: "The Soviet people were fortunate to have as their leader Joseph Stalin, Lenin's co-worker, who is far and away the greatest Marxist and the most able political leader of our times. I always have to smile when the half-literate politicians and economists at the head of the government in this country declare that this great Marxist does not understand American and world conditions."

But the Commonwealth denies that we should follow the Soviet Union—Stalin—through Foster and Nelson and others to destroy this government by force and violence.

Foster's attempts to disguise his venomous hatred for [fol. 2604] the United States is revealed here on page 31: "American capitalism is like a sort of monster parasite, living on the body of the rest of world capitalism; it is cannibalistically devouring the other capitalist countries and growing fat upon their life substance."

And we know when they use "Capitalism" they mean the American way of life.

And on page 37: "American Imperialism . . ."—they call it anything, Imperialism, Fascism, Cannibalism, anything at all—"Is like a monstrous all consuming spider."

And on that same page: "This is the parasitic cannibalistic role of American Capitalism in the world today." And that's the national chairman of the Communist Party.

Nelson agrees with Foster when Foster says "We are Marxian Internationalists." He agrees with Foster when Foster says "The Political policy of the American Communist Party harmonizes in general with that of Communist Parties in other industrialized countries." Of course, we know the countries he refers to are Communist countries of Poland, Hungary, Czecho-Slovakia, Rumania—and we know that in not one of the countries it dominates was the Communist Party chosen by a free or contestible election; in not one can it be evicted by election. The international police state has crept over Eastern Europe by [fol. 2605] deception, coercion, coup d'tat, terrorism and assassination.

Now, we come to the constitution of this organization. It is one big camouflage. It is like an enemy ship at sea that you don't see. It is camouflaged carefully until you turn intent to gaze upon the waters and you see the enemy ship.

It is the same thing when you read this Communist Constitution. There are a lot of things that sound praiseworthy when you first look at it, but when you find out what it really stands for, Members of the Jury, you see how the Communist Party is unmasked. On first reading that you will see, Members of the Jury, paragraphs like this: "The Communist Party upholds the achievements of the American democracy and defends the United States Constitution and its Bill of Rights against its reactionary enemies who would destroy democracy and popular liberties."

Mr. Nelson: That's against people like you.

On first reading, that sentence sounds praiseworthy and without fault. Like that ship at sea that is camouflaged. But when you study it you see the deadly guns of the Communists camouflage. The Communists would defend Amer- [fol. 2606] ica against "reactionary enemies". But an American does not place limits upon his allegiance and

devotion to this country. He does not enumerate the kind of enemies he would fight against. When one takes the oath of allegiance to the United States he declares that he defends the United States not against reactionaries, but all enemies.

But there is a reason for saying that in the Communist constitution because the Communists in the United States like Communists in all countries have only one allegiance and that is the Soviet Union. They do not consider the Soviet Union as a reactionary enemy. So that don't you see how clear it is if there should be a war between the Soviet Union and the United States Russia is not a reactionary enemy and they will do everything to defeat the United States and help the Soviet Union win the war.

Listen to this. Foster, the national chairman of this Party, says in his books "In Defense of the Communist Party", says this: "An American-Soviet war, which could only come as the Supreme expression of American aggression, would be a thoroughly hated war. Obviously throughout the capitalist world the Communists would oppose such a war and so would the overwhelming masses of the people. In the face of that new war provocation, the North Atlantic Pact, the French and Italian Communist Parties have clearly stated their determination not to fight against the USSR. Our American Party has done likewise." Doesn't [fol. 2607] that unmask the Communists, Members of the Jury, just the number 1 thing about it—that in the event of that war, which no American wants, and which they are always talking about, they wouldn't fight against the USSR, but they would fight against the United States and do everything here to destroy it.

And who are the reactionary enemies of the United States considered by the Communists? The President, the United States is reactionary, Congress is reactionary, the Courts are reactionary, the American Legion is reactionary. Right there in their book "The Struggle Against Revisionism", on page 108, the American Legion they criticize, the Veterans of Foreign Wars they criticize. They even go as far as to call them Fascists. And I will come back to that. They will call the United States anything

just as long as to cause their fundamental program to go through.

Now, here is another bit of camouflage, Members of the Jury. "The Communist Party of the United States is a political party of the American working class." Steve Nelson and others of the Communist Party believe that by calling their organization that that makes it a political party. You look through all that material and you see if there is anything there that suggests election paraphernalia of a political party. But behind this camouflage of politi- [fol. 2608] cal party lurked the big guns of Communist destruction. After stating that the Communist Party is a political party this constitution in the first sentence goes on to say that it bases itself upon the principles of scientific socialism, Marxism-Leninism. And of course we have shown you that Marxism-Leninism means only one thing and that is revolution.

Now, getting back to this constitution. On page 5 it says it "carries forward the democratic traditions of Jefferson, Paine, Lincoln, Frederick, Douglass, and the great working-class traditions of Sylvis, Debs, and Ruthenberg."

The sacred and immortal names of Jefferson, and Paine and Lincoln, and Douglass are painted in here as camouflage, that behind that camouflage, Members of the Jury—using these great names—this American historical greatness—appears the real cannon of violence and insurrection.

Everybody knows the names of our founders and the saviours of our Republic, but does everyone know Ruthenberg. And if you follow the the traditions of Ruthenberg and Sylvis you can't follow the traditions of Lincoln and Jefferson and Paine and Douglass. Ruthenberg was a criminal revolutionary. He was a general secretary of the Communist Party and opposed to government with such violence that he finally landed in the Sing-Sing Penitentiary [fol. 2609] because of his revolutionary activities. And when he died they buried him in the Kremlin in Moscow. Imagine the effrontery of placing in the company of gentle Lincoln the name of a criminal revolutionary whose surviving associates could not find six feet of space on American soil in which to bury him, but they had to take him to the Kremlin.

The constitution also says—this constitution—says that it works for the advancement of the working class. Of all the lies told by the Communist Party this is probably the most unconscionable. But Communism is built on the teachings of Engels, Marx, Lenin and Stalin. And there isn't a scrap of evidence in this case that they ever did a days work in their lives.

Aptheker says that the Communist Party seeks to gain power through election. Here is their constitution, and not one word about obtaining power through election. It just mentions that the members are to register and vote, but when it comes to announcing the manner and method by which the Communist Party intends to install the Dictatorship of the Proletariat it becomes mute. We have elections and you can't have elections under a dictatorship. A dictatorship is only one party, Members of the Jury. Foster says he is against the two party system. He just wants one party. If they had their way here there would be only one [fol. 2610] party. What would that mean? It would be a farce to call that kind of a thing an election. There would be no opposition; there would be nothing but that one party. People could never change that government. That is not an election. That is coercion. Foster says in the "Twilight of World Capitalism" on page 66 he condemns the two party system of America.

And then they put Herbert Aptheker on the stand to explain his constitution, Members of the Jury. And you remember he said so blatantly when he was asked if he ever knew any Communist who had advocated force and violence and he said "No" and you know he knew all the time that the leaders of his own party——

Mr. Nelson: Object to that.

—were found guilty.

Mr. Cercone: Just to contradict his credibility.

Mr. Nelson: Object to that.

The Court: Objection overruled, limited to affecting his [fol. 2611] credibility and the jury will be instructed.

Just to show you that he wasn't a credible witness, that he wasn't trying to tell the truth—he was hiding—because

he knows that if he had to live up to the constitution of the Communist Party those fellows would have to be thrown out. But were they thrown out? They are still the leaders of the Communist Party. And that makes nothing but a big falsehood and fraudulent colossal fraud and deceit on the American people. That very thing. They know that. Who do they think the American people are—children? They treat all the American people as children, these fellows. Nobody knows anything but them.

And I went through one by one all those national leaders, and they were national leaders. Don't forget, Members of the Jury, when Steve Nelson was District Organizer here taking his orders from them. They tell you they don't stand for force and violence and that they represent the masses. The constitution and the rest of their works say that they represent the masses. Here is Foundations of Leninism, Page 22: "The opportunists assert that the Proletariat cannot and ought not to take power unless it constitutes a majority in the country. No proofs are adduced, for there are no proofs, either theoretical or practical, that can justify this absurd thesis." What does that mean? [fol. 2612] The goal of the Communists is to seize power of the government by and for a minority group rather than to acquire power through a vote and free vote of the electorate. So they don't represent the majority, Members of the Jury.

And they talk about the huge land owners. Why Stalin is the biggest land owner in the world. Can a Russian peasant go up to Stalin and say "Get off my property, will you." What would happen to a fellow like that? You know what would happen to him.

And Stalin goes on to say in that book, Foundations of Leninism, that the Communists should be ready to take advantage of any untoward situation, a war, an agrarian crisis in order to achieve their revolt regardless of minority.

Stalin makes it very clear in the problems of Leninism on page 21: "'In order to win the majority of the population to its side' Lenin continues, 'the Proletariat must first of all overthrow the bourgeoisie and seize state power, and secondly, it must introduce Soviet rule, smash to pieces the

old state apparatus, and thus, at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty-bourgeois compromisers in the ranks of the non-proletariat toiling masses. Thirdly, the proletariat must completely and finally destroy the influence of the bourgeoisie and of the non-proletarian toiling masses by the revolu- [fol. 2613] tionary satisfaction of their economic needs at the expense of the exploiters'".

Just look at this book, The Problems of Leninism, published by the International Publishers in New York. And who is this book dedicated to? It isn't dedicated to some organization in New York or Pennsylvania. It is dedicated to the Leningrad organization of the Communist Party of the Soviet Union. Yet Aptheker says that the Communist Party of the United States has nothing to do with the Communist Party of the Soviet Union.

Now, Nelson says that he advocates peace. And I have shown you about that peace petition. The only reason they want to have United States drop that program is so that they would be undefended—the world would be undefended. So Steve Nelson and his fellow conspirators want the United States to scrap the atom bomb. If Nelson and his co-Communist revolutionaries were really sincere about peace they would advocate not only the outlawing of the Atom bomb but the stopping at once of all hostilities and demobolization of all armies. And you see nothing in these petitions about the demobilization of the armies because Russia has the biggest army in the world. The whole object of this so-called peace movement is to disarm the United States.

Nelson says he is for peace. And you remember the [fol. 2614] telegram he sent to Dennis. Nelson admitted he sent that. Here is what it says: "Night letter—May 29th, 1950. Eugene Dennis, Federal House of Detention, 427 West Street, New York City, New York. Western Pennsylvania Party Conference to launch crusade for peace and building workers circulation sends you warmest greetings. Recruited five workers for basic industry for the goal of 25 in the campaign named in your honor. Conference pledged recruiting remaining 20 by July 16th. Further pledge to make real drive for peace and develop mass cir-

culation of Worker, pledge to be worthy of example you set as champion fighter for peace in U. S. A. Wish you best of health and will fight for your earliest return. Signed Steve Nelson."

And that's the way Steve Nelson fights for peace. He is going to put 25 more cunning conspiratorial Communists into the basic industries—that is, into the steel mills, into the Westinghouse Electric, into the coal mines, into the water power systems. And there those 25 Communists can do their work. Of course, Nelson is working for peace. When these saboteurs cripple our defenses, the enemy can have the peace it wants. And you know the kind of peace that would be—the peace imposed on all other countries where they rule.

He also said he was proud of the telegram he got from [fol. 2615] Foster in which Foster referred to our efforts to prevent the Communists destruction of South Korea as "Mass murder." Of course, he would be proud of anything which condemns and derogates the United States and glorifies his masters in the Communist conspiracy.

And every phase of this literature, Members of the Jury, shows that they are connected with the Communist International.

In that newspaper "For a Lasting Peace, for a Peoples' Democracy", on page 2, William Z. Foster said this: "At the Seventh Congress"—and this is currently, year of 1949 or 1950—"At the Seventh Congress of the Comintern in 1935, Comrade Dimitrov, sweeping aside the current Social-Democratic drivel to the effect that fascism was 'a revolt of the middle classes', correctly characterized fascism as 'The open, terrorist dictatorship of the most reactionary, most chauvinistic and most imperialist elements of finance capital.'" And that shows you how he fells about Comrade Dimitrov who was at that time the general secretary of the Communist International.

Now, they say they are going to bring forth their program through the ballot box, through the election. Listen to this. This is Foster too: "The people's front move- [fol. 2616] ment, therefore, colliding head-on with the capitalists' main policies of war and fascism, would surely have to confront the full force of their opposition. One would

need to be naive to speak of a peaceful election under such circumstances of sharp political struggle. It would be equally silly, in the face of the organized violence of the big capitalists, to think that it would be simply a parliamentary election struggle."

Now, you remember when this man Aptheker said he was an internationalist, that Marxians were internationalists. And I read to him a paragraph out of the Working-Class Unity for Peace, and here it is: "An internationalist is he, says Comrade Stalin, who unreservedly, without any hesitation, and unconditionally, is ready to defend the USSR because the USSR constitutes the base of the world revolutionary movement, and to defend, to advance this revolutionary movement is impossible without defending the USSR. He who thinks in terms of defending the world revolutionary movement without the USSR, and against it, goes against revolution and inevitably finds his way into the camp of the enemies of revolution." That's what Stalin says, and I asked Aptheker was that right and he says "That is substantially correct."

Now, Members of the jury, if we didn't have anything else in this case except these exhibits here it would be [fol. 2617] enough to substantiate the Commonwealth's case beyond a reasonable doubt.

Recess.

After recess

By Mr. Cèreonè: (Address to the Jury continued)

As the Commonwealth has proven beyond any shadow of doubt the ridicule and contempt which they regard our Government, Members of the Jury, I refer you to Gus Hall's speech, National Leader of this Party. This is what he said about the war in Korea: "If the American forces are successful in Korea, that would encourage Wall Street to move forward in many parts of Asia and spread the war. If the American forces get a shellacking, while it would increase the desperation in Wall Street and Washington, it would encourage the peace forces of our country and the world, and make it more difficult for Wall Street to unleash new adventures."

And you know when they use words like imperialists, fascists, Wall Street spider, Washington, monster parasite—whatever they use—they mean America and American way of life. And they talk about our boys getting a [fol. 2618] shellacking and wanting to see that they get a shellacking. Members of the Jury, if that isn't the worst kind of ridicule and contempt under this statute then the Commonwealth doesn't know the meaning of the word. Mind you, Gus Hall not only ridiculed the armed forces, but he expressed the hope that the American forces will be defeated. He says that if the American forces get a shellacking it will encourage the peace forces—the Communist forces. That's all it means—"Peace forces" means Communist forces of our country and the world. It is one of the sad commentaries on the present state of the world today that the Communists have taken the beautiful word "peace" and have made it a symbol for hideousness because in Communist literature it always means Communist superiority. Throughout all these periodicals and literature, Members of the Jury, distributed by the party the word "peace" means complete submission to the demands of Russia. Here is Gus Hall again on page 1: "The United States has completed the destruction of the United Nations as an instrument for peace and has turned it into a smokescreen for its own aggressive purposes; the United States has scrapped and destroyed all the remaining treaties signed as a result of the Second World War." What is that but holding the United States up to hatred and contempt.

Don't think these remarks are not made by any responsible member—Gus Hall, the National Leader of the Communist Party, Gus Hall who is the leader when Steve [fol. 2619] Nelson was the District Organizer.

Here is an "Outline Guide for Speakers" concerning the Korean situation. They put it out! They put it right out so the members can study it just like they study these books. Here is what they say to do: "Thus, American imperialism, in its drive for world domination—in its drive toward a new world war—has now entered the open military phase of its intervention of the affairs of nations and peoples, with the launching of a war of murder and plunder against the people of Korea."

Would anyone but a hate filled Communist who hates America in every way suggest that? Would anyone but that kind of a person suggest that the United States with its love for real peace and tranquility and its beautiful tradition of aiding distressed countries and peoples all over the world say that America would launch a war for plunder and murder, Members of the Jury? We know the United States Government is bending every effort to bring about a national tribunal of justice where all international differences, no matter what the nature might be, can be settled without bloodshed, without misery, without fear. The United States wants to do that. And these Communists say that the United States is engaged in murder and plunder, Members of the Jury. That is clear that the United States is driving toward the interna-[fol. 2620] tional tribunal of justice. Some day the United States is going to accomplish that. That no matter what the troubles of the world are they are going to be settled at the tribunal of justice without war; justice without misery and fear. That is what the United States is working towards.

What are the Communists working for? They are building up in the minds of their workers that there is going to be a war; there has to be a war, they say. Why? Because they want to destroy the free nations.

Mr. Nelson: Just the opposite— we say there ought to be peace.

Mr. Cercone: I explained that peace. It is clear to everyone except hate saturated Communists and it is clear to them also, but they are purposely twisting and distorting the facts in order to subject the United States to a propaganda and ridicule and contempt. It is all part of the pattern, Members of the Jury, to try to weaken the United States and aid the Soviet Union—from where the Communists receive their instructions.

Let's look at page 11 of this same document found [fol. 2621] right in Steve Nelson's office. "American imperialism, to unleash its aggressive predatory war against the Soviet Union and the People's Democracy, must suppress the national liberation movements in the colonial world. It has arrogated to itself the right to intervene in

every nation and colony in order to drown in blood the people's struggle for independence."

Is there any doubt this language holds up the United States to hatred and contempt—"drown in blood the people's struggle for independence?" What has been the history of the United States from the beginning but to help peoples of the world to gain independence? We fought to free Cuba, Philippines—no—the wars which the United States has been engaged in has always been for the purpose of helping to keep the world free.

And here is a statement that holds the United States to supreme hatred and contempt because if is an insult to every family that have boys in the uniform of the United States Army, Navy, Marine Corps, Air Corps or Coast Guard. Listen to this: "In Korea the people have had the opportunity of witnessing the liberation role—not only in words but in deeds—of the Soviet troops and the Soviet occupation forces, as contrasted with the enslaving role of American military authorities. That is why as a united people they doggedly resist American military intervention." There, it comes out that the Soviet Union has its [fol. 2622] forces right there, the Communists have their forces, the Soviet Union fighting our boys right there in Korea. They come right out and tell you!

Mr. Nelson: That is not what it says. It tells you they were in before 1945.

Now, the real truth comes out, Members of the Jury. All this work in America they are doing for the good of Russia.

Who is not familiar with the humanity and charity of the American soldier boys wherever they go except the Communists. "Enslaving role of the American troops"! Enslaving role of American soldiers who are reared in the American tradition of freedom and independence. Those American boys hardly understand the word "Enslavement". They don't understand those kind of words. Whatever they do they do for the freedom of the people everywhere.

Nelson's headquarters even distributed large numbers of Communist propaganda from South Korea. One of these releases called "The Heroic Struggles" . . .

Mr. Nelson: It was written before the war.

[fol. 2623] The "Heroic Struggle" scurrilously attacked the United States with the following statement, page 2: "As for American measures in the economic sphere, no Japanese property was handed over to the Korean people; everything was grabbed by the Americans——

Mr. Nelson: By the bankers.

"This violence of the Americans, and their colonization measures evoked throughout South Korea and angry outburst on the part of the mass, people's resistance movement." Page 5: "The rejection of the Soviet proposal by the U. S. Government completely exposed the aggressive designs of the American imperialists who wish to continue the occupation of South Korea with a view to converting it into a U. S. colony and military base."

You see what they are afraid of—they are afraid the United States might build its protegtion. They don't want that.

Now, here is a newspaper that was introduced into evidence. Would anyone that was loyal to the United States, Members of the Jury, distribute such scurrility as this: "Stay the Hand of the American Fascist Murderers." That is what they call our American boys—American fascist murderers, not imperialists. This time it is fascist. [fol. 2624] Some of the time it is monstrous spider, some of the time it is Wall Street. It doesn't make any difference—just to confuse. But this time they are talking about the American boys, and here is what they say. Before I read this article let me observe what patience and what forebearing the American people have to allow this kind of baseness. You know the American people can go a long way before they lose their patience. And these Communists had hoped to put over their program before the American people became awakened to the real danger. But they are awakened now, and like a hot match one of the most dangerous to the Communists. And before I read this article let me observe what patience and what forebearing the American people have to allow such a thing in their own midst. This paper is called "For a Lasting Peace" and it carries—what an insult to use that word "peace". It

is the official newspaper of the Communists and Workers' Parties. Let me read it: "Enraged by the failure of their military adventures, the American interventionists are trying, by vile atrocities, by unbridled terror, barbarous annihilation of the defenseless, peaceful inhabitants, to suppress the high morale of the fighting people and thus change the correlation of forces in their favor."

Who would say that about the American people but Communists. And when they say about turning it in their favor [fol. 2625] they want it to be turned in the favor of the Soviet Union naturally.

Here is another thing: "The ground units of the aggressor which landed in Korea concede nothing to the air and naval pirates in regard to cruelty." Here is another one: "The conscience of the peoples cannot be reconciled to the sanguinary crimes of the American invaders in Korea; The peoples of the world demand that the hand of the fascist killers be stayed and that an end be put to their heinous crimes."

"Fascist killers"—whoever they dislike they call fascists, and they call them imperialists, and they call them Wall Streeters, and they call them Washington, and the Government, and the Courts, and everything we stand for, Members of the Jury. Isn't that holding the United States up to ridicule and contempt in the worst way ever brought to light in the history of the United States? Here is a quotation even worse. In the early days of the Korean war, the name of Lt. General Walton H. Walker was in every American home and on every American's lips. He commanded our troops in Korea. The destiny of our boys was in a great measure in his hands and they could not have been in better hands. And General Walker was killed in Korea fighting there for his country. His body was brought [fol. 2626] back here to America as a true soldier's hero, and his body was laid to rest in a hero's grave in Arlington Cemetery. How do you suppose the Communists referred to Walker? They call him a "hangman". Here it is right here, Members of the Jury! General Walker, an American hero: "American generals are trying to 'excel' one another in the maltreatment and barbaric annihilation of Korean women, the aged and the children. The name of the bloodthirsty Walker—a war criminal and a hangman of the

Korean people—will indignantly be branded by everyone in the world. Being in command of the U.S. land forces in Korea, he ordered all peaceful citizens to be driven behind the lines of the American Army and their houses to be destroyed as the Hitlerite troops did in their time. All who show unwillingness to leave with the American army, Walker orders to be shot on the spot. Over three thousand of the non-combatant population, over three thousand peaceful citizens were shot in the towns of Pyongtaek, Chonju, Suwon, and Unsang."—the most dastardly language of the American Government of ridicule and contempt, Members of the Jury!

And listen to the same article in which the American soldiers are called "Savages.": "In Wonsan, American savages destroyed a rest home with 170 of its inmates, a hospital, and a railway polyclinic where many sick and doctors were killed. All these facts of barberous annihila- [fol. 2627] tion by the interventionists of the peaceful Korean population reveal the bestial countenance of American imperialism striving to drown the whole world in blood for the sake of profits. Millions of people throughout the whole world protest against the American savagery in Korea."

And that's the way these Communists talk about our boys in Korea when they know that Communists are fighting and that they would have to do everything to follow the Soviet Union line to help the Communists. Don't you see, Members of the Jury, the whole strategy here is to do everything inside the country to cause trouble, and the Communists on the outside are causing the wars. And they do everything to destroy the Government in Korea while the Communists from without do the job too if they need help. They do it in all the countries that way. It is really a diabolical plan—a world plan. The only thing is that it has been unmasked here.

Now, Members of the Jury, it has been explained in that "Working Class Unity for Peace"—this book here, which has been used by the hundreds of thousands. It is saturated with fulsome praise of Russia and reeks with malodorous attacks on the United States charging it with world domination and instigation of World War III when they are the only ones that are doing the talking about a war, and the

American Government is doing everything it can to stop [fol. 2628] the war. It has been emphasized in this literature by the Communists that they deem the world now could be divided into two camps, the Soviet Union Camp, and the American Camp. Although they always refer to America as the imperialistic camp. They could call it fascist camp, the monstrous-spider camp; they could call it the Washington camp; they could call it anything. I will illustrate from this same book "Working Class Unity for Peace" where M. Suslov of the Communist Party of the Soviet Union Bolshevik says on page 8: "For the past two years"—and this is 1950; this isn't a hundred year book—they used that old story, but they use it altogether and get this whole plan worked out. "For the past two years, two lines in world policy have become even more clear and sharp—the line of the Democratic, Anti-Imperialist Camp headed by the USSR—the camp waging a persistent and consistent struggle against reaction, for peace between peoples and for Democracy, and the line of the Imperialist, Anti-Democratic Camp headed by the U. S."—We are anti-Democratic now. We are either Imperialists or Fascists. Now we are anti-Democratic—"The camp which has as its main object the enslavement of other countries and peoples, the forcible establishment of Anglo-American world domination, destruction of the forces of Democracy and the unleashing of a new war".

They have a diabolical way of twisting and telling that [fol. 2629] somebody else is trying to do what they have been trying to do.

Mr. Nelson: Who is it for?

William Z. Foster, Gene Dennis, Gus Hall, and Steve Nelson adhered to the USSR camp—that's the camp they belong to.

Then we had this man Aptheker on the stand. The man that wrote this "Masses and Main Stream" article. This magazine goes all over the world, goes into many countries. I asked him about this paragraph here, page 11: "For every tortured Korean patriot, for every violated Korean woman, for every famished Korean child the American ruling class, the American Government is guilty." I asked isn't that

holding the United States in the worst kind of hatred and contempt and he said, "No."

And in the very midst of this atrocious, contemptuous attack on the Government of the United States they have that cartoon—you recall that cartoon of a bloated, ugly, bestial figure with a clutching talon and seizing Korea—dripping with blood.

And here is Gus Hall, national secretary of the Com- [fol. 2630] munist Party of the United States, and he is the man that Aptheker tried to hide. He had to bring it out. We didn't bring it out in our case because we know it isn't relevant to the case. But Aptheker, the defense witness, had to bring it out himself, had to put it into the case and had to show that these national leaders were convicted. And Gus Hall is one of them. And here is what he said in "Political Affairs" for May, 1950. He directly attacked the Government of the United States, thus coming within the provisions of the indictment page 15: "It is the representatives of our country, the officials of the American government who have become and are the guardians, the saviours and the rehabilitators of Nazi butchers, Fascist murderers, and cannibalistic generals who manufactured and used deadly, crippling bacteria as a weapon against civilians, women and children. We cannot forget that our land now houses and staffs the political, financial, military, and ideological headquarters of the world camp for reaction, Fascism, and war." And, of course, it is clear that they mean that it is a world camp with the communistic movement of the Soviet Union and Steve Nelson. No one but a deeply hating Communist in America of the American way of life could say this, Members of the Jury.

And listen to Gus Hall again in the same magazine found in Nelson's headquarters, page 14: "The policy of our Gov- [fol. 2631] ernment, doing the bidding of the monopolies of America, threatens the national independence of every country and people on earth. It is the armed forces of our country which are poised for attack in every corner of the earth. It is the masters of America who have now ordered the manufacture of the hellish H-Bomb; it is this nation's finances, national resources, manpower, machinery and factories which now produce weapons of mass murder and

destruction for the whole world camp of war and Fascism." Isn't that holding Members of the Jury, the Government of the United States to hatred and contempt? They make every true American in every fibre of his being declare that to be seditious. And if it isn't then the Commonwealth doesn't know what the words "Seditious, ridicule, and contempt" means under the Statute. When the Communists do that they insult every true American who can only regard this country as the land where men of freedom, of decency, and dignity, might live and work.

Now, another thing about this Aptheker who took the stand. Just to show you that he wasn't telling the truth when he said that the Constitution stood for certain things and that the Constitution is against religious discrimination.

Credibility of the witnesses is the touch stone of reliability of the trial. If Herbert Aptheker lied in one phase [fol. 2632] of his testimony you can be satisfied that he lied in everything else. He tells you that—while religion here isn't an issue—but the credibility of Aptheker is. Credibility of this man——

Mr. Nelson: I object to this, Your Honor.

The Court: I wouldn't bring in any religious issues even to attack credibility.

Mr. Nelson: Read Musmanno's speech right there—you can recognize his words. He can't even make his own.

The Court: All right, Mr. Nelson, object to the Court.

There isn't one pause or respite in Nelson's continuous efforts to disrupt this nation in every way that he could think of, Members of the Jury. And with his work becoming more and more dangerous and more valuable to Moscow and more and more deadly to the American people he was assigned to come here to Pittsburgh. And Matt Cvetic tells [fol. 2633] you about his activities here.

Nelson, through his witness Aptheker says that he would want you to believe that he wanted to change our government by peaceful means. But the simplest way to establish the contentions would be to point to one book or one leaflet where that is shown—by means of election. No credible evidence whatsoever was produced on the part of the defendant to the effect that the drastic changes in our form of government were to be achieved through peaceful means.

On the other hand, Members of the Jury, the evidence which we have presented shows conclusively that the Communist Party is an international conspiracy to overthrow our Government by means of force and violence. Our evidence establishes beyond any shadow of a doubt that is the purpose of Steve Nelson and his Communists here in this country. Whether you call it the Communist Party, Stalin Party, Russian Party, the party of violence, it amounts to the same thing. Nelson is a part of that.

Now, I am not going to take up much time on these books, Members of the Jury, you have heard so much about these books I know you know them well. But just to show you briefly; here is Lenin, the founder of the Communist Party. He says that "Revolution is undoubtedly the most authoritative thing possible. It is an act in which one section of the [fol. 2634] population imposes its will on the other, by means of rifles, bayonets, cannon, by highly authoritative means, and the victorious party is inevitably forced to maintain its supremacy by means of that fear which its arms inspire in the reactionaries. Would the Paris Commune have last a single day had it not relied on the authority of the armed people against the bourgeoisie?"

The Communists advocate violence, they preach violence, they argue for violence. When they are called to account for their seditious efforts they assert that they are really against violence, but in the words of the famous Persian poet: "The moving finger writes; and having writ, moves on; nor all your piety nor wit shall lure it back to cancel half a line nor all your tears wash out a word of it."

Here are the books that Steve Nelson through his headquarters circulated, taught, distributed, and here are the books that he taught from: "The Dictatorship of the Proletariat," page 49: "Can such a radical transformation of the old bourgeois system of society be achieved without a violent revolution, without the dictatorship of the proletariat? Obviously not. To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian [fol. 2635] revolution."

And there are many quotes of this "Foundations" and "Dictatorship of the Proletariat". Members of the Jury, that say over and over again that they expect to overthrow the Government by force and violence.

And "State and Revolution", the bedrock of Communism: "The replacement of the bourgeois by the proletariat state is impossible without a revolution." And from the same book: "And revolution consists in the proletariat's destroying the 'administrative apparatus' and the whole state machinery, and replacing it by a new one consisting of the armed workers and it goes on that way. It is repetitious until you can't get any other idea but force and violence of the overthrow of this Government.

And they say they represent the working class. And they attack a man like Judge Musmanno who has been working all his life. His father was a railroad worker all his life. When he retired he spent most of his time working up and down the railroad——

Mr. Nelson: Hitler was a painter. Don't forget that.

——so proud of the work that he had done in America. So [fol. 2636] proud to help to build the great America. And when he had a chance to talk to any stranger who walked along the railroad he told them how proud he was to help build the railroad. He was just as proud of it as the president of the corporation. And here he is, this man, criticizing a man like Judge Musmanno who we all know fought to eliminate the coal and iron police. And how he fought for that, and how he fought for the good and progress of the people throughout the state.

In the entire book "State and Revolution" you will not find one statement to the effect that the proletariat, that is the Communists, will come into power by means of an election. The very title "State and Revolution" tells you the reverse. And all through that literature is the same story.

I say this because the Communist Party advocates changes in our form of government which cannot come except through revolution.

The Communist Manifesto is the cornerstone of the entire Communist structure and it tells you in the clearest lan-

guage: "The Communists disdain to conceal their views and aims. They openly declare that their ends can be obtained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communist revolution." But if the Communist Manifesto did not spell [fol. 2637] it out in so many words, the same conclusion would be inevitable because the Manifesto demands certain things to be done in America which cannot be possibly accomplished without revolution. Members of the Jury.

They talk about on page 25: "In a word you reproach us with intending to do away with your property. Precisely so, that is what we intend. The Communist revolution is the most radical rupture with traditional property relation; no wonder that its development involves the most radical rupture with traditional ideas."

You have heard many times in this trial the phrase "Marxism-Leninism." Of course, that simply means Marxism plus Leninism. Marxism plus Leninism equals Communism. Karl Marx originated Marxism, and Marxism is the Communism followed in the Communist Manifesto. Marxism is the poison of democracy and Leninism is the poison of democracy.

And what is the Dictatorship of the Proletariat? Dictatorship is one who is vested with absolute power. Joseph Stalin is a dictator. The Communists very frankly and clearly tell you that they want a dictatorship in the United States. And you have heard that phrase "Dictatorship of the Proletariat" over and over again in this literature. In their books the Communists tell you unashamedly of a [fol. 2638] Dictatorship of the Proletariat as if such a state of affairs were the most usual thing in the world although we in America, accustomed to our democratic and republican form of government, shutter at the very idea of a dictatorship of any character.

This is what Lenin said about a dictatorship: "To put it briefly: the Dictatorship of the Prolefariat is the domination of the proletariat over the bourgeoisie, a domination that is untrammelled by law and based on violence and enjoys the sympathy and support of the toiling and exploited masses." By "untrammelled by law", it means unlimited, not held back by law. And of course I needn't tell you what they mean by "based on violence."

And they say that they represent the working man. Matt Cvetic told you that the Communists had been kicked out of every labor union in the United States. The CIO kicked them out; the A.F. of L. threw them out; the United Mine Workers booted them out; and the Railroad Brotherhoods booted them out too. Matt Cvetic told you that. He was invited by the Unions to expose these Communists, and when some of them were exposed when he testified against them they were booted out, kicked out. And it shows you they don't represent the working people. That they don't represent the responsible working people because the Communists organize for only two things, and the labor men [fol. 2639] know that they stir up trouble, and the other, to place a proletariat revolutionary in a vital spot where he can command a given situation when the time for the outbreak of the revolution arrives. And government witnesses like Crouch, and Leonard Patterson told you about that. The very proof that Communists do not enjoy the sympathies of the workers is the fact that the workers themselves don't allow them; they get rid of them. They know what they stand for.

Now, the Communists do not enjoy the sympathy of the toiling masses. Steve Nelson produced Aptheker. Does he represent the working people? He asserted that the Communists intend to take power by election. But listen to Stalin in "Foundations of Leninism": "Does not the history of the revolutionary movement show that the parliamentary struggle is only a school for and an aid in organizing the extra-parliamentary struggle of the proletariat, that under capitalism the fundamental problems of the working-class movement are solved by force, by the direct struggle of the proletarian masses, their general strike, their insurrection?"

Force is the only word that Stalin recognizes. And he is against theory too. "Theory becomes aimless if it is not connected with revolutionary practice, just as practice gropes in the dark if its path is not illuminated by revolutionary theory. Doesn't that describe pretty well what Steve Nelson has done here in this area? He has used [fol. 2640] the theory with the practice. "The Dictatorship of the Proletariat cannot arise as a result of a peace-

ful development of bourgeois society and of bourgeois democracy; it can arise only as a result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police." Again in Foundations of Leninism: "In other words, the law of violent proletarian revolution, the law of the smashing of the bourgeois state machine as a preliminary condition for such a revolution, is an inevitable law of the revolutionary movement in the imperialist countries of the world." And those are some of the things taught by Steve Nelson. But Stalin made it very clear about these reforms. He doesn't believe in reforms. Here is what he said in Foundations of Leninism: "To a reformist, reforms are everything, while revolutionary work is something incidental, something just to talk about, mere eyewash. That is why, with reformists' tactics under the bourgeois regime, reforms are inevitably transformed into an instrument for strengthening that regime, an instrument for disintegrating the revolution. To a revolutionary, on the contrary, the main thing is revolutionary work and not reform; to him reforms are by-products of the revolution. That is why, with revolutionary tactics under the bourgeois regime, reforms are naturally transformed into instruments for disintegrating this regime, into instruments [fol. 2641] for strengthening the revolution, into a base for the further development of the revolutionary movement. The revolutionary will accept a reform in order to use it as an aid in combining legal work with illegal work, to intensify, under its cover, the illegal work for the revolutionary preparation of the masses for the overthrow of the bourgeoisie."

Now, you heard Judge Musmanno and Matt Cvetic testify to the character of the headquarters in the Bakewell Building. They described that pretty well. Can there be any doubt in your minds, Members of the Jury, that there is some tie-up between this organization and the Soviet Union? There are all kinds of proofs there, as they told you.

When copies of the Daily Worker were introduced in this case Judge Musmanno testified that the Daily Worker was the official organ of the Communist Party. Nelson ob

jected. But you will recall the testimony that there were large signs in the headquarters advertising the Daily Worker. Their strategy of infiltrating the basic industries is clear—isn't for any political purpose. No, the vote is not important. It is only in the event that the Communists are successful in bringing about this violent revolution that the man in the automobile factory can do everything there to disrupt that factory, and that is the reason for this infiltration, this concentration in the industries.

[fol. 2642] Judge Musmanno read all that literature which was found in the headquarters and it took him a long time to do it, but he did. He testified that in all these books, pamphlets, leaflets, and newspapers, there was not one kind word about the United States and not one harsh word about the Soviet Union.

Nelson shouts about this case of Judge Musmanno. And I have told you about his record. He was elected to office four different times before he ever heard of Steve Nelson. When he got back from the last war, twice wounded, he told Nelson in cross examination that he gave his life, was willing to give his life to fight Fascism and the enemies of the country. And he was twice wounded there. And in the second war he was much older than Steve Nelson was when the war broke out, and you didn't see Steve Nelson in it.

Mr. Nelson: I object to this. Was Judge Montgomery in the war?

He hadn't heard of Steve Nelson and was flabbergasted to find out what he was doing here in Pittsburgh. That's the reason he brought this prosecution.

Now, I am not going to spend much time here reading some more of this seditious literature all the way through. "The history of the Communist Party", that business of [fol. 2643] a just and unjust war, and how they use every means to bring what they consider an imperialist war, to bring it to a point where they create a civil war in the country, Members of the Jury.

I am going to wind up my summation to you. I don't think I have covered everything. That is pretty impossible because there is a lot in this case. You examine the budget there and you will see how much money they got

from the national organization. You examine some of this stuff here showing just how this stuff was distributed everywhere.

But you will allow me to express my appreciation for the wonderful patience you have displayed in this case, for the interest and concern you have manifested and for the eagerness with which I know you will take up your deliberations which will end in your momentous decision.

You have been truly sacrificing here the comforts of your home in giving up much of your valuable time to perform a duty which is one of the most important and vital functions that can come to a citizen in our great and honored Commonwealth of Pennsylvania.

I believe that we of the Commonwealth have discharged our responsibilities. We have shown beyond a reasonable doubt the overt acts, the hundreds of overt acts here of getting people to read these things and distributing these [fol. 2644] things and getting other people to do it and study these books and do all this Communistic work which endangers the very existence of our——

Mr. Nelson: I object to these remarks which speak of an overt act.

The Court: The overt acts as described is your dissemination of the literature and there is ample evidence of that.

We have shown that the defendant at the Bar under the laws of our Commonwealth is a dangerous person, and through the operation of our statutes should be brought to account for his deeds.

Steve Nelson is not an ordinary person in the Communist set-up, Members of the Jury. The evidence shows that he is an individual possessed of great energies—energies for evil. Nelson was chosen by the Communist Party to take over the areas which in Moscow is regarded as the most vital spot of America for the Communist revolution—Pittsburgh.

Pittsburgh is truly the workshop of the world, the arsenal of our democracy. Here coal mines, steel plants, [fol. 2645] and electric shops turn out the steel and equipment which in times of peace make for a prosperous America, and in times of national emergency operate our

national defense, Members of the Jury. And you know that in Moscow, Pittsburgh, from the witness stand as it was explained to you by the people who were right there, that it is listed as the No. 1 target for infiltration and for eventual seizure when comes the ominous day for violent revolution.

Out of tens of thousands of Communists they could have chosen throughout the world they selected Steve Nelson for Pittsburgh.

The biggest mistake that anybody could make is to underrate the cleverness— if you want to call it that— of the Communist heirarchy. We can dislike it and condemn it, but we must never under-rate its potency.

Nation after nation has fallen, not only under Communist treachery, but under Communist ingenuity which consists of propaganda and the various things that you see here on this table which will show how they distributed it everywhere.

So, Steve Nelson represents in Pittsburgh—and this must not be overlooked—the most tremendous force in the world today—the Communist Party. It jeopardizes the safety [fol. 2646] and security of our country. Steve Nelson has been ideally trained for his work. He studied first of all in the greatest training center for violent revolution—in Moscow. Just imagine, Members of the Jury, a school just for world revolution. Imagine the treachery of an international plot which will send a Steve Nelson to Pittsburgh. The have it in Moscow and Nelson studied there. And he not only took the usual courses but took some extra courses too. And he took over the activities in Philadelphia, and in California, and in Nevada, and in Hawaii. He was a member of the National Committee of this organization that exists in the United States, the controlling body of all the communists in the United States. He attended the Communist National Convention. He was made to order all right to take over this industrial heart of the United States—Pittsburgh—the life center of the United States—Pittsburgh. No, Nelson is no ordinary Communist. The evidence shows that he is the national organizer, the brain and the fist of this ominous movement to overthrow our Government and bring death, destruction, and misery to

our people. He heads the organization which places Communists in basic industry of Pittsburgh. He heads the organization which teach Marxism-Leninism, and that to say, the set-up of the proletarian revolution. He heads the organization which directs the sale and distribution of books and magazine, pamphlets and newspapers and mimeo-[fol. 2647] graphed material calling for revolution, talking about revolution, and holding up the United States to hatred and ridicule in the attempt. All overt acts, hundreds of thousands of them.

We have shown all this through the evidence and it is based on factual observations. We have shown here by the seven books mentioned in the indictment that Steve Nelson has committed sedition in the words of the statute. We have shown by other publications his motive and intent. We have shown you through flesh and blood witnesses how the conquest of Pittsburgh and other territory in Communist planning is to be achieved for the purpose of crippling this great nation in time of national emergency. And you will see these things all around you, and more even than even a witness can testify to.

Evidence shows that Nelson represents a great danger. In the words of the indictment "Against the peace and dignity of the Commonwealth of Pennsylvania." We have a great stake in this Commonwealth and in the security of the United States which is also endangered by those who foment sedition in Pennsylvania under the statute of Pennsylvania. We have a stake in the security of our country no matter what our race, creed or color, and no matter if we be worker, professional, industrialist, farmer, educator, businessman, or public officer.

[fol. 2648] Yes, we will worship at the shrine of freedom and know that this nation has for its motto "In God We Trust". And you know that where there is a proper way, a will this government has travelled fast along civilization's road. From the candlelights of our ancestors to the electric light of today, from the wagonwheel to the pneumatic tire, from the hand pump to the hydraulic power system, from the log cabin to the skyscrapers, and from the prairies to the magnificent cities. We have worked hard in this country. And we have hospitals for the protection

of humanity, and schools for the future of the children, and churches in the honor of God. This sedition statute helps to protect the security of America where a man born in the most humble circumstances can rise to the highest position in the land. That is the glory of America. That is the challenge of America.

He talks about corporations and big men. Why those are the men that are our life's blood. A man as long as he puts his mind and his energies and his inspiration and his moral courage into it can rise as far as his dreams will take him. And that is the challenge of America. We don't criticize anyone because he is successful because in America you have got to work hard to be successful. You have got to have confidence in your moral courage to be successful. A working man of today if he wants to can become a businessman tomorrow and by the application of his moral [fol. 2649] courage and the strength of his mind and the confidence of Almighty God he can rise as high as he wants to. A working man can do that in America! And we know that it happens.

And they criticize Congress about the lawyers. Lawyers come from the working people. I happen to be lawyer, and I know. My father just retired at the age of 81. Worked in the Fort Pitt for forty some years, and I worked there too. And we know lawyers who represent the working people.

You remember when he read—it shows you how the man will try to hide things. When he read that list of so many lawyers, so many businessmen, so many farmers, then he said ten others. What are the ten others but working people. And then in the Senate and Congress he said so many lawyers, so many businessmen, and so many farmers, and 45 others. Why didn't he come out and tell you and say they were 45 working men. Because 90 percent of them named represent the working men. What is the United States but the government of the working men. Where the rich and the poor are treated alike, if they violate the law, and we know that. Where an individual unless he applies his energies and initiative and his inspiration won't be in the position that he could be if he maintained that because you have to maintain your courage and power to succeed in America.

[fol. 2650] In his opening speech Nelson mentioned about his children. In America children will always be free. Under Nelson's system children will live in constant fear, under eternal fear of a dictator. The dictator that Nelson calls the Dictatorship of the Proletariat. In America we want the children to live in peace and the serene atmosphere of the immortal principals of the Constitution of the United States which this law protects.

You probably have been as impressed as I am at that billboard which shows the people coming and landing in New York Harbor with the barbed wire fence in the background—the slogan says "Only Those Who Have Lost Their Freedom Really Appreciate It", and the billboard shows a stretch of barbed wire which of course indicates concentration camps. And then it depicts happy refugees landing in New York and kissing the sacred soil of America in the light of the Statue of Liberty. If that weren't so, would thousands upon thousands of people want to come to America every year if it wasn't the land of freedom? Do you see that same thing, people wanting to go to other countries, Members of the Jury? If it wasn't the land of the free, would people look forward to America and look toward America as they would a beacon light of freedom throughout the world?

Americans are generous and confiding and it is hard [fol. 2651] for them to believe that there could be on the loose a barbarous group that wants to bring the government we love, and that government of freedom and equality crashing it to the ground and into the dust of oblivion.

That is why it has taken the American people a little while to catch up to these Communists because you can hardly believe that that could happen. But we have unmasked and we have revealed one of their most resourceful and dangerous and arrogant leaders in Steve Nelson. What he does and what he advocates endangers what the statute against sedition protects—the very foundation of the thing in which we believe—our independence. We want to keep that independence for ourselves, for our children, and for future generations of real Americans. I have four children and I as well as all Americans want our children to live in a free, wholesale, God-inspiring atmosphere of our native

land, under American leadership with an American form of Government, American courts, and churches of all denominations, and American schools as our fathers and grandfathers knew them. This statute protects America. Here it's criticism is expressed in the true American way. No matter how severe, no matter how caustic, and you can shout to the top of your lungs if you want to, but it is never expressed to hold the American Government up [fol. 2652] to ridicule and hatred and contempt. It is never expressed to advocate the overthrow of the Government by force and violence.

We don't want to live and no true American wants to live nor his children live in Lenin's kind of world, in the kind of misery we see wherever Communism exists. No, we shall not live in a Government where the light of freedom is turned off forever and a day.

I feel confident, Members of the Jury, that you will examine the evidence here and you will return a verdict consonant with that evidence. I feel confident that your verdict under the statute will uphold the peace and dignity of our Commonwealth; that it will take its place in the history of the law which assures all its citizens that they need have no fear. It will be a verdict that our present generation of children and the future generation will accept with pride because it will be a verdict which shows courage in meeting any person, force, or influence which attacks freedom, happiness and progress as we know it under the Constitution and the statutes of our land, and under the guidance of Almighty God.

(Court adjourned until tomorrow morning, Wednesday, January 30, 1952.)

[fol. 2653] Wednesday, January 30th, 1952.

(At side bar.)

Mr. Nelson: Your Honor, I just want to make a motion in regard to a story in the Pittsburgh Press, one occurring on the 28th of this month which carries a story that Ben Carreathers was convicted in a previous trial, and another one was in yesterday's paper, the 29th, which carried a story that Onda and Dolsen were convicted and carried the story in the same column where the report of my trial was

given, and I move for withdrawal of the jury and ask for a mistrial.

The Court: Well, we will refuse your motion, but you put your articles, if you wish, in affidavit form like you did before.

Mr. Nelson: At this time, I am not entitled to make any [fol. 2654] other motions except I believe one that I feel is in order, that the court order in its charge to the jury a directed verdict of not guilty on the counts . . .

The Court: You have made those motions on each count.

Mr. Nelson: That is a specific one.

The Court: We went down those twelve points.

Mr. Nelson: I mean a general motion so I will be covered.

The Court: We will refuse the general motion for a directed verdict, the separate motion having already been ruled on on the twelve counts.

Here is a matter of expediency. There are twelve counts and I ruled the jury may pass on them all. In this indictment there are two of those books in count twelve [fol. 2655] which are not offered and the indictment carries all those excerpts. Now, this jury must know what the twelve counts are; so I have prepared an abbreviated statement of the counts in the indictment leaving out all the whereases and the Grand Jury has done this and done that and just started in each case with what you are alleged to have done, and I have left out the two papers and I left out all the excerpts. I am not going to submit those. Now, if it is agreeable with you, and agreeable with the District Attorney I will attach this abbreviated statement of the indictment to the verdict slip. You may, if you want, compare it.

Mr. Nelson: I don't know the legal significance——

The Court: Well, it is one way of eliminating the things that are in the indictment, particularly the excerpts and [fol. 2656] those two books.

Mr. Nelson: However, Your Honor, you know I object to the way you keep all the counts in there because I felt that even if you felt there may be some validity to some of them, I can't understand for the life of me how you could keep all of them because the same evidence that was

brought out against me here was brought out against me in the other trial and were stricken. I think three or four of the counts remained, and the only thing I attach to that is the court's prejudice against me. I don't know what this means now.

The Court: This just simplifies the issue here. I haven't got a copy, but you may take the original and compare it with the indictment, and take a few minutes if you want.

Mr. Nelson: I will take your word for it at this time.

[fol. 2657] The Court: All right—if it isn't as I have stated—it just leaves out the preliminaries in each count and starts out the defendant did this and leaves out the bottom part "Contrary to the Act of Assembly", and so forth. In other words, it just sets forth the elements as I have copied them from each count.

Mr. Nelson: I probably have them outlined myself that way.

The Court: As far as the twelfth one is concerned I have left out the two books and left out all the excerpts, so everything else with the exception of the introductory part and concluding part has been retained.

Mr. Nelson: I don't know when I have the right to make motions regarding Mr. Cercone's summation, whether it is after—

[fol. 2658] The Court: You would make those now.

Mr. Nelson: I make one general motion that on the ground of Mr. Cercone's inflammatory statement to the jury which he went into statements like "ostensible spy", "ostensible sabotage", those were permitted and I asked the court to order the withdrawal of a juror and move for a mistrial.

The Court: We will note your motion in that respect, and since the addresses to the jury are transcribed that will be sufficient without your citing the particular parts of it. Ordinarily, we don't transcribe the closing addresses. In this case we did. When they are not transcribed you must read into the record expressly what part you are objecting to. And that isn't necessary here because the closing addresses are being transcribed and made part of the record.

[fol. 2659] Mr. Nelson: I am not waiving any petition on that.

The Court: No.—The closing addresses are being transcribed.

Mr. Nelson: I notice the juror was either in an accident—

The Court: He called up and said he had an accident last night and was a little embarrassed——

Mr. Nelson: I would appreciate if you would ease him up on that.

The Court: I asked him if he wanted to be relieved, whether he was satisfied, and he said "Go ahead." I'll ease it for him, if you think it necessary.

(End side bar.)

[fol. 2660] ORAL CHARGE OF THE COURT

Montgomery, J.
Kennelly, Reporter.

Members of the Jury:

I am sorry that the misfortune of one of the members of your jury this morning has compelled further delay on it, and I trust his accident and misfortune will not cause him any disturbance here. Mr. Roman has stated to me that he feels able to go ahead with the matter so I have taken his word for it. I hope that asking him or accepting his statement that he is all right will not cause him any further harm.

Through these past weeks you have listened patiently and attentively to the evidence submitted by the prosecution and to the evidence offered by the defendant. Likewise, you gave your attention to the arguments of the District Attorney and the defendant. I cannot praise you too highly for the manner in which you have, to this point, been performing your duties as jurors. You are, indeed, entitled to the thanks of all citizens for the sacrifices you have made and for the services you are rendering in the faithful performance of this public service, which has been requested of you. I add my thanks and, also, my special commendation to each one of you, and I have this to ask of you further that you continue in the same spirit until [fol. 2661] the completion of this matter.

For the most part, the District Attorneys and their witnesses, the defendant and his witnesses have completed

their functions in the matter and it now becomes my duty and privilege to review the case with you—to advise you you of the law and to further charge you as to your participation. To the completion of my charge, your participation will have been passive. You were advised to listen and to understand but not to discuss or come to any conclusions until after the charge of the court. At that time your duties become active, for then you must begin your deliberations so as to come to conclusions which will culminate in a just verdict.

After separate examination, under oath, it was determined that you were competent to sit as jurors in this case; that you had no prejudice against the defendant nor any opinion as to his guilt or innocence which might affect your verdict; that you will not let your verdict be determined by any extraneous matters such as newspapers, radio, and the like, or world conditions, and that you had no fear of criticism for returning a proper verdict, whatever it should be. You have, therefore, been chosen to try, according to law and evidence, the issues raised by the indictment charging the defendant with the crime of Sedition, to which indictment he has entered a plea of Not Guilty.

[fol. 2662] Your responsibilities should, by this time, have been impressed upon you. This is an important case, important to the Commonwealth of Pennsylvania because the existance of its government and the government of the United States may be threatened by such things which the defendant is charged to have done and said, and important to the defendant because his rights under our Constitutions and his Liberty are involved.

Selected from the citizens of Allegheny County, you are called upon under your oath to decide whether or not the defendant is guilty of a criminal offense. You are required to decide the issue unemotionally and without prejudice, partiality or sympathy. You are not to be blinded to the interests of society by any sympathy or pity you may have for the defendant nor are you to forget the justice due the defendant by reason of the serious consequences that could result from his alleged acts. It is your duty to follow the path of the evidence wherever it may lead, then to apply the law as you receive it from the court and to come to a

true verdict accordingly, and it must be the verdict of all, unanimous. In your deliberations you should give proper attention and consideration to the expressions of your fellow jurors.

You are the sole judges of the facts and it is the Court's duty and sole right to explain the law. It is your recollection of the evidence which shall prevail in your deliberations. [fol. 2663] If counsel for the Commonwealth has made reference to any evidence incorrectly or if the defendant has done so, or if the court does so, disregard the inaccuracy and rely on your own recollections. In the explanation of the principles of law and in a review of the case as presented in behalf of the Commonwealth and of the defendant, I will refer to portions of the evidence. The review will be by no means exhaustive. However, the evidence which I may fail to mention is not of less importance than that which I will discuss with you; unless you come to a different conclusion. As you are the judges of the facts it is within your exclusive province to decide not only what they are but their relative value. The credibility of the witnesses as well as the importance of their testimony is solely for you to determine. You are, under your oath, required to give careful consideration to all the evidence presented. My reference to or omission of any parts of the testimony is not to be taken as any indication of the court's impression of the credibility of the witnesses or the importance of the testimony. Evidence, however, does not include statements of fact made by the District Attorney or the defendant in their opening or closing addresses nor does it include anything that the court has stricken from the record. You are, however, compelled to give respectful consideration to the arguments of the District Attorney and the defendant but they must be based on the evidence [fol. 2664] as given from the witness stand or from the exhibits. Any other statements of fact made by them should be disregarded as not being part of the evidence on which this case is to be decided.

The crime charged is sedition and under the Criminal Code adopted by the Legislature of this State it is made a felony. It is classified under the general heading of "Offenses Against Government" and is described in the

following terms: The word sedition as used in this Act shall mean any writing, publication, printing, cut, cartoon, utterance, or conduct, either individually or in connection or combination with any other person, the intent of which is a) to make or cause to be made any outbreak or demonstration of violence against this State or against the United States. b) To encourage any person to take any measures or engage in any conduct with a view of overthrowing or destroying or attempting to overthrow or destroy by any force or show or threat of force the government of this State or of the United States. c) To incite or encourage any person to commit any overt act with a view of bringing this government of this State or of the United States into hatred or contempt. d) To incite any person or persons to do or attempt to do personal injury or harm to any officer of this State or of the United States or to damage or destroy any public property or the property of any public official because of his official position. The word [fol. 2665] 'sedition' shall also include: The actual damage to or destruction of any public property or the property of any public official perpetrated because the owner or occupant is in official position. Any writing, publication, printing, cut, cartoon, or utterance which advocates or teaches the duty, necessity, or propriety of engaging in crime, violence, or any form of terrorism as a means of accomplishing political reform or change in government. The sale, gift, or distribution of any prints, publications, books, papers, documents, or written matter in any form which advocates, furthers, or teaches sedition as hereinbefore defined. And lastly, organizing or helping to organize or becoming a member of any assembly, society, or group for any of the policies or purposes thereof are seditions as hereinbefore defined.

Now that is the definition of sedition, the various forms of it as set forth in the Act of Assembly upon which this case — based.

As you will note the act of sedition may be committed by words, writings, drawings, or conduct but it is not necessary to prove that an accused utilized all means of expression; any one may form the basis for a conviction. Also, such things may and usually are subject to more than one

interpretation have more than one meaning and you must determine which interpretation was intended by an accused. That is the reason you must be fully informed [fol. 2666] of the conditions under which the words were spoken, the writings, and so forth, used and the conduct displayed; and in this connection, the capacity of the user becomes an important consideration. With this information you are better equipped to determine what was intended by the person who spoke the words, wrote, published or circulated the written and other prepared material and by his conduct. Therefore, in the present case you must determine this question—did defendant intend that those who saw and heard him or received the literature from him should interpret it in the manner set forth by the prosecution witnesses, or by the defense witnesses, or as the ordinary person might interpret and understand it if that interpretation is different from that as given by the prosecution witnesses or the defense witnesses.

In some writings, utterances, and so forth, the purpose is expressly stated or shown and for that reason it may be concluded that the writer, publisher, circulator, and so forth, intended the express results.

In other writings and utterances the purpose may not be expressed directly but implied, or they may not have a present application. It then becomes necessary to determine what was intended and whether the user or handler or speaker put the writings or words to a present use or sought to have others give them a present meaning.

[fol. 2667] Intent is something that need not be expressly shown in words or writings; it may be inferred from what is done. In other words, you may infer from a person's acts that he intended those things which normally are the results of such acts; such results that an ordinarily prudent person would naturally expect unless the evidence of course indicates to your satisfaction a contrary intention.

In the present case you have writings, and so forth, that may fall into either category, either expressing a present intent or purpose, or being used for a present purpose which may be different from their original intent or meaning. The various interpretations placed upon the many

writings offered into evidence constitutes a great amount of the evidence presented to you, because your verdict in a large measure depends on whether the interpretation intended by this defendant constituted a violation of the Statute just read to you—or, in other words, did he intend by his words or the use he made of any such material a result forbidden by the Act?

Such material and their interpretations are also before you for another purpose—that is the determination of the policies and purposes of the Communist Party of the United States of America. And I shall discuss that further with you a little later.

[fol. 2668] By forbidden results—I mean those things mentioned in the Act previously read to you: a) To make or cause an outbreak or demonstration of violence against this State or the United States. b) To encourage any person to take measures or engage in conduct with a view of overthrowing either government by force or show of force. c) To incite or encourage any person to commit an overt act with a view of bringing either government into hatred and contempt, or to destroy public property or the property of any public official, or to advocate or teach the duty, necessity or propriety of engaging in crime, violence or any form of terrorism as a means of accomplishing political reform or change in government.

Now this does not mean that everyone who writes, acts or speaks, circulates or has in his possession, literature advocating change in government or criticizing government or governmental officials or advocating social, economic or political changes violates the Act. Everyone, under his constitutional right of freedom of speech and freedom of press and of assembly, has a right to assert his demand for such things and solicit others to support him unorthodox or extreme as those changes or criticisms may seem to be so long as violence, crime, terrorism, force or show of force, hatred or contempt is not involved, that is, that such things are not suggested as a means of accomplishment. This right extends to the abolition of pres-

[fol. 2669] ent governments and the creation of new ones.

Section 2 of Article I of the present Constitution of Pennsylvania provides for this in these words:—

> "Power of people.—All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper."

This has, however, been interpreted as not including the right to do so by forceful means such as armed revolution. Whatever theoretical merit there may be to the argument that there is a "right" to rebellion against dictatorial government, it is without force where the existing structure of the government provides for peaceful and orderly change. Both the Pennsylvania Constitution and the Constitution of the United States provide means for their amendment and there are laws in Pennsylvania providing for the raising of representative bodies for complete revision of our Constitution. Our governments, whether local, state or federal, are constantly being changed in philosophy, ideals, personnel and in other ways. This is the recognized right of citizens to do if done in such ways [fol. 2670] as are approved by our Constitutions; but the use of force, violence, crime, terrorism is beyond that right and constitutes not a change in government by the capture, destruction and overthrow of government. The Constitution of the United States has been amended by the people many times and there is now pending other proposed amendments. Likewise, the Constitution of the Commonwealth of Pennsylvania has not only been amended many times but completely revised. The present one was adopted in 1874 but there have been efforts made since then to adopt a new Constitution. It has, therefore, been recognized that such legislation as we are now considering is constitutional in limiting the extent to which individuals may go in accomplishing change in their governments or its policies. I advise you that the Act is constitutional in this case and its constitutionality is not before you for consideration. Such limitations as are imposed by the Act do not violate

the citizen's constitutional right of free speech, of free press or assembly, or anything else guaranteed to him under our constitutions.

Freedom of speech, or of press, or of assembly does not include the right of a citizen to commit a felony or to solicit anyone else to commit one. Government has the right of self-protection from such acts on the part of its citizens. "The acts with which the defendant is charged in the in-[fol. 2671] dictment, if committed by him, constitute a clear and present substantial evil which our legislature has a right to prevent and are such as to justify the application of the Statute." I advise you on this point as a matter of law and you need not deliberate on it.

The Act is not directed, that is the statute is not directed at discussions but at advocacy of the use of force, and so forth. If a person's use of such data as is before us or his words are for peaceful and lawful reform or for study and discussion or are for teachings in the realm of ideas he has not violated the Act. But, if his use extends beyond and was intended to accomplish or to encourage or incite others to accomplish the forbidden results or the use of the forbidden means, he has abused his constitutional privileges and has violated this Statute. Books are not on trial as has been suggested by defendant, but his use of books is.

You have heard evidence of the fact that some of the exhibits are in general circulation and may be found in our public libraries. That is within the bounds of privilege. Such use would not form the basis for an inference of criminal intent.

We are not concerned with the authors of these books and pamphlets but only with their interpretations and the intent which the accused had in mind during his connection with them. If his intent was not to accomplish what we have previously described as sedition, no crime has been com-[fol. 2672] mitted and he should be acquitted. On the other hand, if his intent was to accomplish economic or political changes by way of violence, terrorism, crime, force, or by acts intended to bringing the governments into hatred and contempt, then it is brought within the prohibitions of the Act and he should be convicted.

In this connection, you are instructed that it is not a requirement that any of the results forbidden by the Act be accomplished or that success be probable, that is, that any outbreak or demonstration of violence occurred or that probably such would occur, or that anyone was incited or encouraged to action or probably would be. It is necessary only to sustain a conviction that you find that the accused intended such results by the use of such literature or by his conduct or utterances. However, you must find the results intended were for the present or in the future as soon or as speedily as circumstances should permit; not at some uncertain time in the distant future.

There is one other section of the Act which needs further explanation—that is the section pertaining to organizing or becoming a member of an assembly or group whose policies are seditious. Membership alone in such an organization is not sufficient to justify a conviction. It would require proof that the member did something in connection with his membership to indicate approval of the policies, the furtherance of the purpose or the development of the [fol. 2673] organization. In this case you are instructed that proof merely of membership by the defendant in the Communist Party is not sufficient to justify a verdict of guilty on that count. To convict under this section you must find the purpose of the group was sedition and that the accused indicated approval, advanced the purposes or strengthened the organization. And you must find those elements from evidence presented here. The findings of other courts mentioned during the course of the trial do not control your action. You must and should act independently in this case.

Defendant is charged in this indictment brought in the name of the Commonwealth of Pennsylvania with having done and said certain things in violation of the Sedition Law which we have just reviewed. The indictment contains numerous subdivisions or counts which I shall summarize for you.

In the first count, it is charged that he encouraged diverse unknown persons to take certain measures and to engage in certain conduct with a view of overthrowing the Government of this State and of the United States. In

the second count, that he incited and encouraged certain persons to commit an overt act or acts to bring the Government of this State and of the United States into hatred and contempt. Third, that he encouraged certain persons to commit overt acts with a view to bringing the Govern-
[fol. 2674] ment of this State and of the United States into hatred and contempt by certain writing and writings, publications and so forth which advocate and teach the necessity and propriety of engaging in crime, violence and other forms of terrorism as a means of accomplishing political reform and change of government. Fourth, that he encouraged certain persons to commit overt acts with a view to bringing the Government of this State and that of the United States into hatred and contempt by the sale, gift and distribution of certain publication, and so forth, which teach sedition. Fifth, that he organized, helped to organize, became a member of an assembly or group having sedition for its policy and purpose. Sixth, that he individually and in connection with others made, published, distributed, had in his possession with intent to publish and distribute certain writings, and so forth, the intent of which was to cause an outbreak and demonstration of violence against the State of Pennsylvania and against the United States. Seventh, that he individually and in connection with others, distributed and had in his possession with intent to distribute publications and so forth, the intent of which was to encourage persons to take measures with a view of overthrowing and destroying the government by force. Eighth, that he individually and in connection with others, distributed and had in his possession with intent to distribute publications and so forth, the intent of which was to encourage
[fol. 2675] people to commit overt acts with a view to bringing the Government of Pennsylvania and the Government of the United States into hatred and contempt. Ninth, that he individually and in combination with others, distributed and had in his possession with intent to distribute publications and so forth, the intent of which was to incite persons to do personal injury and harm to officers of the State of Pennsylvania and of the United States. Tenth, that he likewise with others had publications that advocated and taught the duty, necessity and propriety of engaging in

crime, violence and other forms of terrorism as a means of accomplishing political reform and change in government. Eleventh, that he had in his possession and distributed seditious literature as defined by the Act. Twelfth, that he distributed the following publications which were seditious in themselves, namely, the Communist Manifesto, Exhibit 15; Foundations of Leninism, Ex. 16; State and Revolution, Ex. 20; History of The Communist Party of the Soviet Union, Ex. 21; The Twilight of World Capitalism, Ex. 19; Stalin is Leading Us To The Victory of Communism, Ex. 18; The Dictatorship of the Proletariat, Ex. 17. Excerpts from some of these are set forth in the indictment to demonstrate their seditious nature, but I shall not read them to you. They have been read to you, and argued to you by the District Attorney and by the defendant.

The indictment charges that these alleged offenses were [fol. 2676] committed on and before the 31st day of August, 1950. This would include things subsequent to August 31, 1948 and not before. The indictment originally stated July 19, 1950 as the date, but was by amendment changed to August 31, 1950. So that the period covered by the indictment is now August 31, 1948 to August 31, 1950.

As I have previously stated to you, this is a criminal action and these actions are always brought in the name of the Commonwealth. During the trial, the side supporting the prosecution is sometimes referred to as the Commonwealth and the conduct of the case for the prosecution is in the hands of the District Attorney of Allegheny County, acting through his Assistants. This means that the public authorities are bringing before you, the jury, the evidence of the prosecution and it is for you, representing all of the people of the Commonwealth, to fairly determine the guilt or innocence of the accused after hearing and fully considering the evidence on both sides of the case. That is to say, you must decide whether one of your society has offended against the laws enacted for the protection of all.

All defendants and this defendant is presumed to be innocent of all crime unless and until the Commonwealth satisfies you of his guilt beyond a reasonable doubt. This presumption of innocence is a fundamental part of our judicial [fol. 2677] system and should not be treated as a mere

make-weight or fiction but as a complete defense unless and until the evidence, in your opinion, overcomes it in the manner stated. The fact that he has been indicted by the Grand Jury is no basis for inferring his guilt because that body hears only the evidence of the prosecution. The Commonwealth, by law, has the Burden of Proof imposed upon it. It must satisfy you beyond a reasonable doubt of the guilt of the defendant by evidence produced here, before you can convict him. It is your duty to give him the benefit of any such doubt if it exists. By reasonable doubt is meant such a doubt as may arise out of the evidence or lack of evidence and which prevents you from coming to a satisfactory conclusion. It must not be merely fancied, imagined or conjured up, for the purpose of escaping that which you might consider a disagreeable duty. It is not every doubt; it must be an honest doubt and such a doubt as fairly strikes a conscientious mind and clouds the judgment. If your minds be fairly satisfied of a fact—to the extent which would induce a man of reasonable firmness and judgment to take it as true, and to act upon it in a matter of the highest importance to himself—then you may consider that fact as sufficiently established to found a verdict upon it. If you are not so satisfied, you are not to accept as fact that which is alleged to be so. The Commonwealth is required to prove beyond a reasonable doubt all the elements necessary [fol. 2678] to constitute the crime and unless they are so proved the verdict must be not guilty. This is because the defendant is presumed to be innocent until proved guilty beyond a reasonable doubt.

For your guidance and assistance, I shall now briefly discuss the contentions of the prosecution, and those of the defendant relative to the proofs presented to you by each, and instruct you on the rules of law which will govern your deliberations in passing upon the credibility of the witnesses who have testified on behalf of one side or the other. Due to the length of the trial and the amount of evidence submitted to you, it is impossible for me to review it in great detail, therefore, I say to you that my discussion of it will necessarily be brief in comparison to the amount of it.

The contentions of the Commonwealth or the prosecution. The Commonwealth claims and asks you to conclude from the evidence presented that the defendant was an ac-

tive member of the Communist Party of the United States of America and that such organization is not a bona fide political party but part of an international organization affiliated with and dedicated to the advancement of the policies and purposes of the Communist International as now promulgated by the Comintern; that the purposes and policies of the party and of the defendant were to encourage, incite, teach and advocate persons to use force and violence, crime and terrorism to accomplish outbreaks and demon[fol. 2679] strations against this State and the United States and to accomplish the ultimate overthrow of the governments of both. And further, to bring those governments into hatred and contempt and to damage the property of them as well as the property of their officials. The Commonwealth contends further that in order to accomplish these things the Communist Party of the United States of America and the defendant utilized literature mentioned in the indictment which was, according to its interpretation as given by prosecution witnesses, seditious in itself, and also other literature offered in evidence which could be interpreted in such a way that those receiving it would be incited and encouraged to commit acts of sedition or which taught and advocated the duty, necessity and propriety of engaging in crime, violence or any form of terrorism as a means of accomplishing political reform or change in government, or to bring the government into hatred and contempt. And further the Commonwealth contends that this defendant was sent to Pittsburgh as an active organizer for the Communist Party and that he did actively engage in organization work here, as organizer and chairman of the Communist Party of Western Pennsylvania; that, as such, he maintained headquarters in the Bakewell Building from which he sold, gave, distributed literature, books and so forth, the intent of which books and the intent of the defendant being to accomplish acts of sedition; that, in addi[fol. 2680] tion, he conspicuously displayed in such headquarters pictures, cartoons, maps, and so forth, indicating approval of doctrines, leaders, policies of the U.S.S.R. and ridiculing, condemning, villifying the United States of America, its leaders and policies. The Commonwealth contends further that the defendant organized meetings and

classes wherein he advocated and taught or supervised teaching of the necessity, duty, propriety of engaging in seditious acts, as we have outlined them, to accomplish the purposes of the Communist Party; that he and his party advocated the seizure of all private property, the elimination of capital, a supremacy of the working classes and the assumption of power of government by a minority of the working classes which would act as a dictatorship over all and was referred to as the dictatorship of the proletariat; that in order to preserve the power to be so usurped by that group, the Red Army, which included the armed forces of the USSR as well as the armed forces of any other Communist Governments, would be utilized; that this defendant and his party referred to the United States as imperialistic and the aggressor in planning wars and to be the enemy of himself and the Party. The Commonwealth further contends that the defendant recognized Comrade Stalin as his leader; that this defendant and the Communist Party, as a mask to shield and hide its true purposes, advocated many things which had appeal to various groups of people in the United States, which in themselves were legal, democratic [fol. 2681] and beneficial but that they were not sincere in their advocacy of those things; that their true intentions were to gain entry to various groups so as to cause unrest and agitation therein so as to encourage and incite members thereof to the commission of acts of violence against their governments and to develop conditions favorable to armed revolution and to form a vanguard for an armed insurrection when a crisis or other opportunity appeared. The Commonwealth further contends that the defendant had been taught at the Lenin Institute in Moscow, not only the policies and principles of the Communist Party, but the practical application of them, including the means of accomplishing their aims by force, violence, and so forth; and further that some of the literature circulated by the defendant was received from the other headquarters of the Communist Party in Moscow, Bucharest and Belgrad, Belgrad being the headquarters of the Cominform; that the constitution of the Communist Party was written to mislead readers and prospective members and was taught and interpreted as involving force and violence contrary to its wording; and that it expressed democratic action but none was practiced.

Now in support of its contentions, the Commonwealth has offered you testimony of various witnesses. Joseph Becker, the city detective who visited the headquarters on various occasions; M. A. Musmanno, the prosecutor in this matter, who likewise visited the headquarters, secured lit- [fol. 2682] erature, observed other literature and paraphernalia and was present when the contents of the headquarters were seized, much of which material has been offered in evidence, identified and interpreted by him and is before you for consideration. This witness, M. A. Musmanno, because of extensive studies and experience in Communist matters, as testified to by him, was privileged to give you his interpretations of many of the writings. He interpreted some of them to be seditious per se or in themselves, and others to be such as to be instruments by which sedition could be accomplished by one so intending. Excerpts from the books have been read to you and argued to you and are before you, so I shall not indulge in further recitation or explanation of them. However, just to summarize his interpretations of them, they were in substance that the books were such as to encourage and incite others to overthrow the governments, to bring those governments into hatred and contempt; that they indicated a plan for dictatorship of a minority of the United States of America, supported by foreign armies; that imperialism meant the United States and that the Korean war is an imperialistic war in which the United States was the aggressor; that the government of the United States is a government of minority, namely the capitalists; and that all private capital is to be eliminated and socialism substituted by the use of force through revolution.

[fol. 2683] The next witness, Paul Crouch, now of the Immigration Bureau of the Department of Justice, and a former member of the Communist Party from 1925 to 1942, told of his association with the defendant in Alameda, California; of his activities and the activities of the defendant while there, of the structure of the Communist Party of the United States and its affiliation with the Communist International. He told you about its formal action in disassociating itself with the Communist International in order to avoid registering as a foreign agent under the Voorhees'

Act but that actually it did not sever its affiliation. This witness gave you the interpretations placed on some of the data before you, as advocated and taught by the defendant in schools in California with which he was connected and that the substance of such teachings was that the accomplishment of their aims was impossible without the use of force and violence; that they taught and advocated that violent revolution was inevitable, that it was necessary to smash the military and use force to overthrow the government to accomplish their aims; that the aims of the Communist Party in the United States were to build the party organization, get its members in key positions and to develop conditions favorable to revolution so that it could be the vanguard to lead an armed insurrection as soon as conditions permitted.

[fol. 2684] Leonard Patterson, another Commonwealth witness, now a public taxi driver in New York and formerly a member of the Communist Party from 1928 until 1937, testified similarly as to aims and purposes. And further, that he was sent to Moscow with the defendant in 1931 where they were taught at Lenin Institute that the proletarian revolution meant the use of force and violence in the United States. They were, in addition to being taught theory, taught tactics for a matter of ten to twelve months; that he was engaged in carrying out the aims of the party with defendant in Philadelphia and that he left the party because it was supposed to be a party of the people, on paper, but was doing nothing for the people and that he left the party voluntarily.

Charles M. White now employed by the New York Subway System, testified he was a former member of the Communist Party; that he joined in 1930, attended the Lenin Institute for eighteen months where he met the defendant; that they were taught to accomplish disorganization; cause unrest in labor, dissatisfaction among workers, particularly sharecroppers in agriculture and to encourage people to overthrow their government; that he was instructed to work among young people, the armed forces, boy scouts, colleges, student organizations and particularly among the Negroes to encourage them to set up a black republic; that he and the defendant were taught how to take a city, disrup-

[fol. 2685] its water supply and other essentials and that Pittsburgh, Cleveland and the East Coast were particularly mentioned as strategic areas. He testified also that they were taught coding and de-coding and a secret courier system in which they were to utilize young girls and old women who were never to come to headquarters.

Matt. Cvetic, testified as to his membership in the Communist Party and that at the same time and before, he was undercover agent for the Federal Bureau of Investigation; that he remained a member of the Communist Party until February of 1950; that from August 1948 until February 1950 the district organizer in western Pennsylvania was the defendant and that the defendant had been sent here as one of the two best organizers because of the importance of the Western Pennsylvania area and the presence here of basic industries; that the witness was considered a close associate of the defendant; that the defendant had over all supervision of recruiting drives, educational discussions, the entrance and activities of members in industry; sale and distribution of literature of the Communist Party and the Daily Worker and the executive work of the party; that the headquarters of the party were in the Bakewell Building; that he had met defendant there many times. He described the headquarters and the literature which came from various parts of the world; testified that classes were set up by the defendant, *wherein the defendant taught and* [fol. 2686] *expressed the idea that the United States was imperialistic, aggressive, was planning a world war and was their enemy; that when news of the explosion of an atomic bomb in Russia was announced, the defendant stated:* "We have a bomb now and the enemy will not start a war", that they considered Stalin their leader and that they were part of the International Soviet and that the hammer and sickle were their symbols; that they glorified the Red Army of the USSR; and that the aims of their party were to overthrow the government of the United States by force and violence, establish a dictatorship and liquidate a large portion of the population; and that democracy was not practiced in the party.

Contentions of the defendant. The defendant's contentions are largely to the contrary but in a few instances are in accord with the prosecution's. Defendant admits

that he was a member of the Communist Party of the United States of America and that during the period of the indictment he was engaged in the work of his party in Western Pennsylvania, as chairman for that area, and as such maintained headquarters in the Bakewell Building from which books and pamphlets were sold and otherwise distributed. He also admits to the conduct of meetings and classes and to the presence at the headquarters of the books and other data offered by the Commonwealth and identified by their witnesses, as well as certain other books and data; and he has produced additional pamphlets which [fol. 2687] have been identified by his witnesses and offered into evidence as having been in the headquarters and issued or distributed therefrom. They are offered in evidence and are here for your consideration. They are identified as exhibits—I think they run from "A" on through to "Z" and then repeating with double letters.

Defendant denies, however, that his intentions or the policies and purposes of the Communist Party of the United States of America were seditious, or that they advocated or taught the overthrow of the governments of Pennsylvania or the United States of America by force, violence, and so forth. He further denies that there was any intention on his part or the part of his party to bring either government into hatred or contempt or to incite anyone else to take steps or to act to do so. He denies that they encouraged anyone to any outbreaks of violence. On the contrary, defendant contends that the policies and purposes of the Communist Party of the United States of America and his own intentions were laudable and legal; that the Communist Party of the United States of America was a bona fide political party organized for the purpose of participating in elections to the extent of electing candidates who were communists and others who advocated things with which they agreed; that they were dedicated by their constitution to the use of Democratic means to accomplish their aims; that their constitution forbade the use of force [fol. 2688] or violence and that they taught the use of peaceful democratic means and expelled members who violated the edicts in this respect, that their aims were socialistic which meant the abolition of not all private property but only bourgeoisie property and the supremacy

of the proletariat or working classes; that this means that the state would, by democratic processes, take charge of all means of production and operate it for the benefit of the workers so that there would cease to exist profits to capitalists from the efforts of labor. Defendant further contends that their purpose in entering the various organizations was to gain the acquaintance and confidence of the members thereof so that they could explain their aims and theories and enlist support; that they had no motives or intentions of filling key positions with communists, in preparation for violent revolution; but, on the contrary, they sought to accomplish their aims and purposes by enlisting a majority of the people and changing the governments by the vote of the majority; that they only advocated force or the use of force when the will of the majority was resisted by the minority with force; that they were resolved to benefit conditions for the Negro, for labor, for women, for agricultural workers, particularly sharecroppers, and any other oppressed or unfortunate people; that their policies were determined at conventions held under democratic processes and conducted in a democratic fashion and were not determined or dictated by any foreign or [fol. 2689] ganization or government, although they admitted that their philosophy was based on the works of Marx, Lenin and Stalin and their aims were international in extent. The defendant contends that they referred to capitalists and monopolists as "imperialists" and not to the governments of Pennsylvania or the United States or its people; that they advocated peace and for that reason considered the World War I and the Korean War unjust and imperialistic wars as having been induced by capitalists and that it was for their advocacy of peace that they attempted to have a majority of the people petition for the abolition of the atomic bomb.

The defendant further contends that the literature found in the headquarters did not advocate or teach the use of force in the United States or in any country where democratic processes were available; nor did it advocate the commission of overt acts on the part of any one to bring either government into hatred or contempt; or that any of it taught or advocated the necessity or propriety of using

force to accomplish political, social or economic reforms. The defendant contends further that most of the books dealt with socialism historically without any application thereof to Pennsylvania or the United States, and further that he did not personally teach, supervise or authorize the teaching of any acts that are described as seditious [fol. 2690] by the Statute we are considering.

In support of his contentions, the defendant has offered you the testimony of several witnesses, the first of which was Herbert Aptheker, presently a teacher at the Jefferson School on Social Sciences in New York, and author of books and periodicals for the most part dealing with the history of the Negro in the United States, and also being an editor of a magazine known as, "Masses and Main Street".

This witness stated that he is an avowed Marxist, subscribing to the philosophies of Marx and Engels, and a member of the Communist Party of the United States since 1939. In substance, he sustains the contentions of the defendant and testified that the aims and purposes of the Communist Party in the United States were lawful; that the party was organized as a legal political party for the purposes of advocating the institution of socialism as a system of government here but that it was to be accomplished not by force and violence but only through the peaceful and lawful exercise of the will of the majority; that the teachings of Marx, Engels, Lenin and Stalin form the basis of their philosophy of government but are not adopted in a dogmatic or inflexible way, but on the contrary are to be applied in such a way as the conditions found in any particular country may require. This witness explained his interpretation of many of the books and [fol. 2691] excerpts therefrom which were found in the headquarters of the defendant and gave his opinion that none of the excerpts or the books indicated, suggested, taught, advocated or approved the use of force, violence and similar things in the United States for the accomplishment of the aims of the party. Since I have not particularly reviewed with you the excerpts relied on by the Commonwealth; I shall not do so in connection with the excerpts read to you by this witness. They are all before you in the books and you have the right and duty to ex-

amine them and inspect them and read them to the fullest extent. This witness, however, explained that revolution as expressed in the books, pamphlets, and so forth, particularly as applied to the United States, meant peaceful revolution—a change by democratic processes or, as he expressed it—"the end of the old and the beginning of the new"; that the idea of elimination of private property was limited to bourgeoisie or productive property, not all private property; that imperialism had reference only to monopolists, capitalists and those who had control of the power of production and not to the governments. He further described under what circumstances force and violence was intended in that it was only intended to oppose the use of force by the reactionary minority who resisted the new ideas subscribed to by the majority. He explained a good many of the books and pamphlets had no present application but were for historical and abstract study. He [fol. 2692] stated that the dictatorship of the proletariat meant supremacy of the working people but distinguished proletariat as being but a part of the laboring masses, not including all of them. He described an article on the Korean War, Exhibit 43, written July, 1950, as supporting his contention that the Korean War was inspired by capitalists supporting Sigmund Rhee who had been disclaimed by the Korean people, he stated. He explained also that a cartoon found in his article did not refer to the United States but only to its monopolists and capitalists. He denied that the party had any ulterior motives to be accomplished through their efforts in behalf of the Negro, labor, farm workers, and so forth, and insisted upon the democratic nature of the structure of the organization of the Communist Party of the United States of America and in the conduct of its affairs.

Defendant also produced Herman Sayer, an investigator at the Carnegie Library at Pittsburgh, who stated that the Communist Manifesto, Foundations of Leninism, Twilight of Capitalism and the Soviet Constitution and many of the other volumes which are before you are to be found and are available in Carnegie Library either as reference books or for circulation purposes.

George Seibel, Head Librarian of the North Side Carnegie Free Library, also testified that the Communist Party

[fol. 2693] regularly rented the lecture hall for the conduct of its meetings; and that he knew that because of the name of one of its members who made the reservations for the hall.

The final witness for the defendant was Ben Carreathers, who described his Communist Party affiliations as dating back to some time in the 30's; that he had been active in organizing for the elimination of discrimination and for the advancement of Negro interest; that he had also been an organizer for the steelworkers of America, CIO, at its inception; that he did not work among the Negroes or among labor for the purpose of placing communists therein or causing agitation or strife but to further the interests of those groups. He stated that it was not the policy of the Party to advocate force and anyone who insisted upon the use of force would have been expelled and that his purpose in furthering the interests of the Party was to enlist the support of the masses by persuasion so as to gain the favor of the majority. He wrote and issued some of the pamphlets which are offered by the defendant. He attended classes and taught therein but said he never heard anyone advocate or teach the necessity for the use of force, violence, crime, and so forth, and said that he met the defendant in the 30's at the State Capital at Harrisburg when he was leading a group from the western part of Pennsylvania and the defendant was leading one from the east. That is the extent of the contentions of the Party [fol. 2694] and a brief reference to the outline of the evidence supporting the contentions, Members of the Jury, and I think for your convenience that I will make a little break at this point and grant you a short recess.

Recess.

After recess.

Members of the Jury, I have now outlined the contentions of the Commonwealth and of the defendant to you and referred to the supporting evidence; the evidence supporting each contention. There is a great deal of other evidence in the case which I shall also refer to you briefly when I discuss with you the manner in which you are to consider the evidence. As you can readily appreciate

from what you have heard so far, the contentions and the evidence supporting the contentions are directly contradictory so that it then becomes your problem of determining what is the credible and believable testimony and what is the incredible or unbelievable. As I have previously told you, you are the sole judges of the facts and that includes the right to pass on the credibility of witnesses and also to determine what weight you shall give to their testimony. You must determine to your own satisfaction who has told you the truth. In order to do this, take into [fol. 2695] consideration the witnesses' manner and appearance as he testified. Did his demeanor suggest honesty, frankness, sincerity, an obvious desire to give the facts as accurately as they could be recalled or did it leave upon you the impression of evasiveness, dishonesty, unreliability, and did it bear the stamp of reasonableness or the lack of it? To what extent, if any, was it contradicted or corroborated either by other testimony or by facts and circumstances proved in the case? Were contradictary statements made by the same witness at another time and not satisfactorily explained? What were the witness's opportunities for acquiring knowledge of the facts? What were his opportunities to study and gain the experience to form the basis for opinions he was permitted to express? Some of the witnesses were permitted to give their interpretations of books because they *had been qualified as experts*, those with more experience and better understanding than the ordinary person. *This is particularly true of the witness Judge Musmanno*, and witness Dr. Aptheker. The value of their opinions would be determined partly upon the extent of their previous acquaintance with the subject matter. Each qualified himself in such fashion as to let the court, induce the court, to permit them to give their opinions as to the interpretation of these books. Further, in considering the credibility of witnesses consider whether the statements of the witnesses were clear, logical and consistent. The testimony of Patterson, White, [fol. 2696] Crouch, and in part Cvetic, Aptheker and Carreathers covered a period of time prior to the period of the indictment. Now, defendant is not charged with nor can he be convicted for anything which he may have said or

done before August 31, 1948 so that the sole purpose of this testimony is to throw light on his motives and intentions and on the purposes and policies of the Communist Party of the United States of America during the period of the indictment. The evidence as to interpretation placed upon books, pamphlets and teachings is submitted for the same purpose. The Commonwealth contends that those interpretations, evidence as to aims and intentions which were testified to as being before the period of the indictment were continued by this defendant and by the Party into the period of the indictment and were illegal. Now, the defendant on the other hand, doesn't assert that there was any change in his interpretations or his intentions or that of his Party, and rather contends that they were the same throughout and were not illegal but were legal. But the testimony offered us to his previous activities, statements, interpretations, as may have been expressed by him are for the purpose of showing what they were during tthe period covered by the indictment. And that is August 31 of 1948 to August 31 of 1950. Then in passing on the credibility of witnesses you should consider whether the witness is interested in what your verdict shall be,—if he is inter- [fol. 2697] ested, determine whether that fact of interest has in any way colored his testimony or caused him to testify falsely or to withhold part of the truth. It does not necessarily follow that an interested witness will not tell the truth, the whole truth, the exact truth as he knows it. You are to decide that and in doing so, consider the interest, if any, he had in the outcome of the case.

Keep in mind any relationship which you may find exists between a witness and the defendant, then decide whether that relationship in the ordinary sense as well as in an official manner or as members of the same Party affected his testimony. If you find that a witness was inaccurate in any part of his testimony but only mistakenly so, accept what you find had been accurate and reject the other part, but if you find that a witness knowingly and deliberately testified falsely as to any material fact, you have the right to reject all of the testimony of that witness as unbelievable although you are not required to do so. This drastic rule should be carefully applied because the witness may

unwittingly fall into error because of an honest mistake, poor memory or courtroom tension. Some evidence is considered circumstantial. That is, it consists in proving facts from which you may infer by the process of reasoning other facts sought to be established as true. Circumstantial evidence must be of such character as to produce a moral cer- [fol. 2698] tainty of the facts sought to be established beyond any reasonable doubt.

Much of the testimony relates to the credibility of the witnesses. The witness, M. A. Musmanno, was interrogated at great length by the defendant concerning his experiences from his youth to the present time. This included an inquiry as to his attendance at the University of Rome, his interest in Fascism while there and thereafter; his interest in a trial conducted a number of years ago known as the Sacco-Vanzetti trial; his political career as a legislator, candidate for Lt. Governor, candidate for the courts of this county as well as the Supreme Court of this state; and the extent and duration of his opposition to communism. The witness in substance denied that his motives in this case as prosecutor or witness were affected by his political career or to further any personal interests. He explained his interest in the Sacco-Vanzetti case as consistent with his interest in this case; that his opposition to Communism dated back many years and was sincere, and that he had no interest in Fascism.

The defendant also by questions attacked the testimony of the other witnesses for the Commonwealth, viz., Paul Crouch, Leonard Patterson, Charles White and Matt Cvetic, particularly pointing out that these last four witnesses had previously been associates in the Communist movement [fol. 2699] and were now being paid the sum of $25.00 per day plus expenses for testifying in these matters; and that Mr. Cvetic had further commercialized his information by permitting it to be used in an article in the Saturday Evening Post and to be the subject of a motion picture. Crouch, Patterson and White admitted they had been communists but denied they had any mercenary motives for testifying. Mr. Cvetic denied he had been a communist in fact and contended that his membership had been merely to hide his identity as an agent for the Federal Bureau of Investiga-

tion. Each man explained his reasons for withdrawing from the Communist Party and I shall not review those with you.

Likewise, in attacking the credibility of Herbert Aptheker, the District Attorney inquired as to his knowledge of any acts of force being used by communists which he had asserted he had never observed or known of. And the District Attorney directed the witness' attention to instances where certain members of the Communist Party had been convicted for conspiracy to organize for the purpose of teaching and advocating the use of force and so forth. The witness acknowledged acquaintance with the matters presented to him but persisted in his statement that those men had not used force or advocated its use to accomplish their aims. That is the only purpose of that information in the case to attack his credibility on his [fol. 2700] statement that he knew of no one using or advocating the use of force. The interest of this witness in the defendant and in the Communist Party was admitted by him. Insofar as the other defense witnesses were concerned, no attempt was made to discredit Mr. Sayer or Mr. Seibel. However, it was developed that Ben Carreathers was and is an active communist, interested in the furtherance of their activities and aims as well as being personally interested in the defendant. It was also developed in connection with this witness that he had been previously convicted of several crimes among which was perjury—a felony. All of those cases had been tried together in this court and resulted in guilty verdicts on which appeals were sustained, taken and sentences subsequently imposed. Under our law, anyone convicted of perjury is forever disqualified as a witness in any matter in controversy. Had this been directed to the attention of the court before the witness testified, none of his testimony would have been received. However, since the matter was not raised at that time and you were privileged to hear the testimony, I have not stricken it from the record. You will, however, consider it as the testimony of a convicted perjurer and consider it closely from that viewpoint before accepting it as credible or believable testimony. Generally, any witness who has been convicted of a felony or a misdemeanor in-

volving fraud or falsehood may be confronted with such matters in order that the jury may have a better under-
[fol. 2701] standing of him in passing on his credibility; and in this case, since the convictions included perjury, you must be particularly careful in satisfying yourselves of his credibility before accepting his testimony.

The testimony of Crouch, Patterson, White and possibly Cvetic, should also be carefully considered because of the association of those men with the defendant in matters of a nature similar to that with which we are now concerned. If you believe that Cvetic was not an undercover man for the Federal Bureau of Investigation but was in fact a communist, he would be considered an accomplice in the commission of many of the acts with which the defendant is charged. This would not, however, disqualify him as a witness against his associate, for, under the law, if you believe the testimony of an accomplice, that is if you are satisfied of the absolute truthfulness of the testimony, you may convict him upon that accomplice's testimony without any more; but it is usually best to have the testimony of an accomplice corroborated in some part of the material facts, to indicate its truthfulness. The testimony of an accomplice should also be received with caution and the reason for this is the corrupt source of the accomplice's testimony. This same rule applies to the testimony of Ben Carreathers in addition to what I have already told you, because of his association with the defendant in the matters involved here during the period of the indictment.

[fol. 2702] Crouch, Patterson and White under the testimony presented could not be considered as accomplices of the defendant during the period of the indictment so as to bring them under the full effect of the rule which I have just given you; nevertheless by reason of their prior association and mutual interest at that time, you should scrutinize their testimony from that viewpoint. The defendant has by his remarks referred to them as "stool pigeons" or "informers" and this has directed your attention to this fact. But it is for you to say whether or not they have testified as credible, believable witnesses or otherwise.

If you are satisfied that Mr. Cvetic was an FBI agent, this particular attention to his credibility dictated by the rule

I have just given you, need not be given, because he would not be an accomplice.

The fact that the defendant, who has a right to do so, has not seen fit to testify in this case cannot be considered by you as any evidence against him or as a basis for any presumption or inference unfavorable to him. You must not permit such fact to weigh in any degree against the defendant nor should it enter into your discussions or deliberations. The prosecution must prove defendant guilty beyond a reasonable doubt as explained in these instructions. The defendant is not required under the law to establish his innocence.

[fol. 2703] The number of witnesses called on one side as compared to the number on the other side is not to be taken as determinative of the truth; the question for you should always be what witnesses or witness is credible. If but one witness whom you believed were to testify on one side and he were contradicted on the other side by several witnesses whom you did not believe, you should accept the testimony of the single witness. On the other hand, if more than one witness testified substantially to the same effect and you find these to have been credible witnesses a corroboration of the one by the others would strengthen the case of the side calling them.

The credibility of every witness in the case must be determined. A witness is credible when honestly trying to tell the truth even though mistaken in some particular. A witness is not credible when intentionally seeking to deceive or mislead by falsely testifying or deliberately concealing facts within his knowledge and this extends to giving opinions in which he does not believe. In determining the credibility of the respective witnesses you may and should call to your assistance your common experience and observations in life insofar as they may aid you, although you are not privileged to bring into the case what you may know or have learned about it on the outside. It is for you [fol. 2704] to weigh the testimony of each of the witnesses and to attach to it the value to which under all the circumstances you considered it entitled.

Now, keeping in mind the law, which I have undertaken to explain to you, and applying it to the facts and circum-

stances as you may find them to have been—what conclusions appear reasonable and proper—are you satisfied beyond a reasonable doubt that the defendant, during the period of the indictment, August 31, 1948 to August 31, 1950 unlawfully and feloniously did 1) encourage unknown persons to take certain measures and engage in certain conduct with a view of overthrowing and destroying by force and by a show and threat of force the governments of this state and of the United States; 2) did he incite and encourage persons to commit an overt act or acts to bring the government of this state or of the United States into hatred and contempt; 3) did he incite and encourage any persons to commit an overt act or acts with a view to bringing the government of Pennsylvania or of the United States into hatred and contempt by the use of writings, cartoons, utterances, which advocated or taught the duty, necessity and propriety of engaging in crime, violence and other forms of terrorism as a means of accomplishing political reform and change in government; 4) did he incite or encourage any persons to commit acts with a view of bringing the government of this state and of the United States into [fol. 2705] hatred and contempt by the sale of publications which advocated and taught sedition; 5) did he organize, help to organize or become a member of an assembly, society or group, the policies and purposes of which were seditious; 6) did he make, publish and distribute or cause to be so done or have in his possession with intent to publish and distribute any writings, cartoons or make utterances, or be guilty of conduct the intent of which was to cause or cause to be made an outbreak or demonstration of violence against the State of Pennsylvania or the United States; 7) did he use also sixth count with intent to encourage people to overthrow their governments or to incite them to do acts that would bring their governments into hatred and contempt, or to do injury or harm to any of its officers or to any of its property, or to make, publish, and cause to be made or have in his possession with intent to do so or make utterances that taught the duty, necessity and propriety of engaging in crime, violence, and so forth; did he sell and give away and distribute papers and booklets, and so forth, which advocated and taught sedition, particularly the Com-

munist Manifesto, Foundations of Leninism, State and Revolution, History of the Communist Party of the Soviet Union, Twilight of World Capitalism, Stalin is Leading Us To the Victory of Communism, and the Dictatorship of the Proletariat.

Each of these charges is set forth in the indictment as a separate count. You may think there are overlappings and [fol. 2706] possible duplications but I would ask you to consider each one and act upon it as stated regardless of that possibility. A close examination will, I think, disclose slight variations so as to include the various definitions of sedition as given in the Statute and the devices means by which it can be accomplished. I have previously advised you of the elements in each count and shall not elaborate further at this time except to point out that your decision will not require you to compare the relative merits of democracy and communism or capitalism and socialism; neither will it require you to inquire into the worthiness of the causes which defendant contends he and his party espoused; nor the justification of any criticizing he or it may have leveled against our governments, its officials or policies, or against any influences that may have been exerted on our governments.

The fundamental question to be answered is: Did the defendant intend and was the purpose of the Communist Party of the United States of America to work within the framework of democracy as limited by the Statute we are considering; or did he and his party intend to go outside the bounds set up by the Statute in accomplishing their purposes? This is the controversial question.

Defendant's membership in the Communist Party and his activities are also elements on which you must be satisfied [fol. 2707] but such facts do not seem to be seriously if at all denied by defendant. So that your deliberations will for the most part be upon the question which I have stated to you as the fundamental question; were their activities within the limits of the Act or were their activities intended to be without those limits.

You must act on each count and indicate on the verdict slip which will be sent out with you, the results of your deliberations. You may find the defendant guilty on all

counts and in that case you will say so. There is sufficient evidence, if believed, to justify such a verdict; or you may find the defendant not guilty on all counts, and in that case you will say so. That depends upon how you view the testimony of the witnesses as I have previously explained to you, whether you believe or do not believe them; or you may find the defendant guilty on some and not guilty on others, in which case indicate by number the counts where guilt is found and likewise where acquittal is indicated. At any rate, indicate your findings clearly on the verdict slip and be consistent in your findings.

For your assistance, I have attached to the verdict slip statements of the various counts of the indictment in abbreviated form separately numbered. These I have just reviewed with you, and that will enable you to analyze each [fol. 2708] count separately and then on the verdict slip itself indicate all or none or which guilt is indicated or which guilt is not indicated.

The Court: Mr. Cercone, is there anything further about which you would have me instruct the jury? Any corrections or suggestions?

Mr. Cercone: No.

The Court: Mr. Nelson, do you have anything further you would have me tell the jury? Any corrections or suggestions?

Mr. Nelson: I have a general exception to the charge, Your Honor.

The Court: We will grant you a general exception to the charge, and also the District Attorney.

If there is no request for corrections I will submit the matter then to the jury.

[fol. 2709] Mr. Nelson: The other request would be——

The Court: Your motion for a directed verdict generally is refused, and exception noted.

Mr. Nelson: The books the jurors are to look over, if they will see them, that they be unmarked copies. I mean, if they are going to go into that question.

The Court: All the exhibits here are before them. I don't know how much can be accomplished in compliance with your request. Mr. Cercone, I don't know whether you have unmarked copies in all cases, but on the other hand it might

be well for the jury's attention to be directed to the places in the volumes which have been emphasized by both your witnesses and the Commonwealth's witnesses for their convenience, Mr. Nelson, whereas just let them peruse the books [fol. 2710] just generally.

Mr. Nelson: There are all kinds of markings in these books. They would never be able to make out which is which, because sometimes I had to take a book from them which was marked by them and then I used it for another purpose. The only way they could keep that straight would be if they had the record. That's all as far as I could see.

Mr. Cereone: I think in the last trial the defense marked it in green; the Commonwealth was in red.

The Court: Possibly we can work that out before submitting the exhibits to the jury in sending it up to them. I will try to be of assistance in that respect.

Mr. Nelson: That is going to take an awful long time if it is going to be done the way it was in the last trial. It would [fol. 2711] take days to do that. I think the proper thing is to let them have the books especially unmarked books where that is possible.

The Court: We will try to accommodate you in that respect. I will ask the District Attorney to cooperate to the fullest extent.

Members of the Jury, as we have now given you what we consider sufficient instructions, our duty is performed. Upon you rests the responsibility of reaching a just verdict under your oaths; it is your duty to consider all the evidence adduced, apply the laws which I have stated to you and then render such a verdict as shall fulfill your obligation both to the Commonwealth and to the Defendant.

You may now take the case, give it your most careful consideration and render a verdict which will receive the approval of your consciences.

Members of the Jury of the twelve first chosen, are all of you well and able to complete your duties as jurors? Is there anyone who does not feel capable?

[fol. 2712] (The Court was satisfied the twelve first chosen were able to complete their duties as jurors).

Since none are unable to continue I shall make the following order discharging juror number 13 and juror number

14: Appealing upon inquiry that each of the twelve jurors first chosen and sworn is able to perform his duty it is hereby ordered, adjudged and decreed that the alternate jurors number 13 and number 14 be and they are hereby discharged from further service and the case is hereby submitted to the original jury of twelve.

The verdict slip is attached to this statement of the counts. Members of the Jury, about which I have told you. They are numbered, and comply with my instructions in preparing your verdict. The exhibits will be forwarded to the jury room. But before you commence your deliberations I have instructed the attaches to see that you have an opportunity of having your lunch. So by the time you are through with your lunch possibly the exhibits will all be forwarded to the jury room.

That is about all I have to tell you about in connection with the matter except to thank you profoundly for your interest and attention to me and to all the proceedings here. [fol. 2713] Numbers 13 and 14 will be excused with thanks, my deepest expression of appreciation. And we are not sending you away without having your lunch. You will be provided for but I must separate you from the other twelve since the matter is now committed to the other jury.

You may have the original twelve retire and have them engage in lunch. And see that number 13 and 14 are likewise provided with lunch.

(Case closed.)

[fol. 2714] Thursday, January 31st, 1952.

(At the request of the defendant the jury was duly polled.)

[fol. 2715] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1954

No. 236

COMMONWEALTH OF PENNSYLVANIA, Petitioner,

vs.

STEVE NELSON

ORDER ALLOWING CERTIORARI—Filed October 14, 1954

The petition herein for a writ of certiorari to the Supreme Court of the Commonwealth of Pennsylvania, Western District, is granted.

The Solicitor General is invited to file a brief setting forth the views of the Government.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.